

GEO

Guyana Economic Opportunities

Investor Roadmap

Reference Manual, Volume I

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NOTICE

The authors of this manual wish to advise that unfortunately fire completely destroyed the building on Homestretch Avenue that housed the following:

Ministry of Housing
Ministry of Labour
Central Housing and Planning Authority
Occupational Safety and Health Authority

Up to the time of printing, relocation of these Ministries and Agencies had not been completed. As such, the information contained in the Directory of Investment Resources and elsewhere in this manual which makes reference to the addresses, telephone numbers and other contacts within the above Ministries and Agencies will need to be updated. This will be done as soon as the relocation process is completed.

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**In a separate volume.*

ACRONYMS/DEFINITIONS

BOG	Bank of Guyana
CARICOM	Caribbean Community
CBH	Central Board of Health
CHPA	Central Housing & Planning Authority
CIF	Cost, Insurance, and Freight
EIA	Environmental Impact Assessment
EPA	Environmental Protection Agency
FSPS	Fire Services Prevention Section
GGMC	Guyana Geology and Mines Commission
GOG	Government of Guyana
GPL	Guyana Power and Light Incorporated
GSWC	Georgetown Sewage & Water Commission
GT&T	Guyana Telephone and Telegraph Company Ltd.
Guywa	Guyana Water Authority
IAS	International Accounting Standards
IPR	Intellectual Property Rights
IRD	Inland Revenue Department
MTTI	Ministry of Trade, Tourism and Industry
NDC	Neighborhood Democratic Council
NIS	National Insurance Scheme
RDC	Regional Democratic Council
UK	United Kingdom

Definitions

Business Types: The terms firm(s) and company(ies) have specific meanings defined by the Acts of Guyana. In this document the words “business,” “entity,” and “enterprise,” and the like – are generic.

Commercial Company: A business that derives at least 75 percent of its gross income from trading goods it does not manufacture.

Company(ies): A business that is incorporated.

Conversions: All figures in Guyana dollars unless stated otherwise. As of June 2001, the rate of exchange was G\$187/US\$ and G\$257/UK£.

External Company: Incorporated or unincorporated entity formed under the laws of a country other than Guyana.

Firm: An unincorporated entity of two or more individuals and partnerships (including those with one or more incorporated companies), though most often a sole proprietorship.

Gazette: Refers to ‘The Official Gazette of Guyana’, government's official weekly publication in which certain actions are listed for public notification.

Intangible Property: For purposes of this report, refers to trade marks, copyrights, patents, designs, and intellectual property.

Land - Deeded: Land registered under the old *Deeds Registry Act* is transported land.

Land - Titled: Land registered under the new *Land Registry Act* is titled land.

Land - Government-owned: Land owned and administered by various Guyana ministries or agencies.

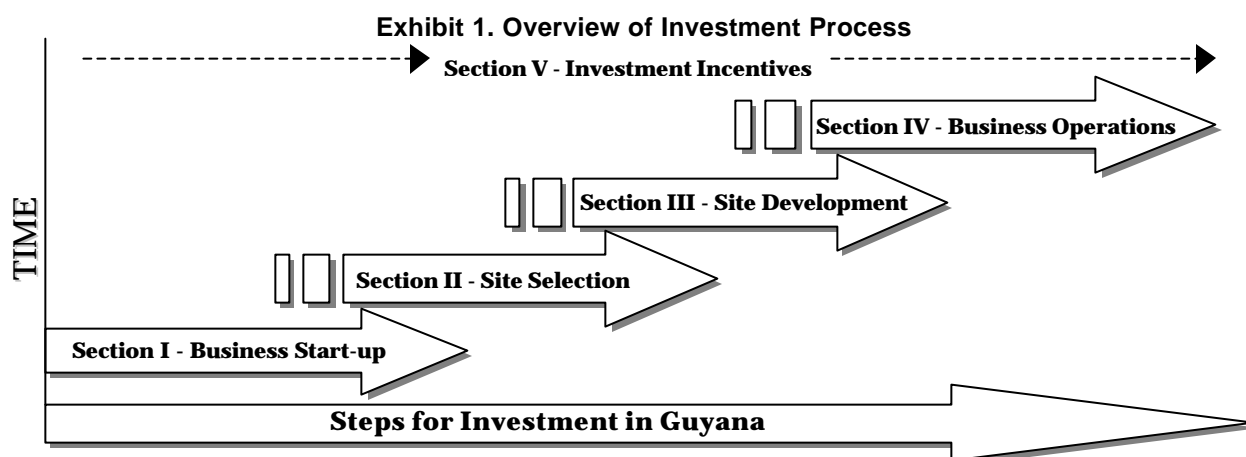
Land - State-owned: Land administered by the State.

Old Georgetown: Boundary for water defined as Atlantic Ville, Cummings Lodge to Agricola Village; for sewerage defined as Vlissengen Road to Six Heads Lewis Blvd.

FORWARD

With the Guyana Investor Roadmap, GO-Invest seeks to provide the prospective businessperson – foreign and local alike – with an overview of the entire investment process to better manage the resources and time it takes to establish a business. This manual is targeted to public servants, chambers of commerce and associations as a reference guide and a complement to the GO-Invest Investor Roadmap Fact-sheets and the roadmap website found at <http://www.sdn.org.gy/goinvest/index.htm>.

The Investor Roadmap informational suite – consisting of manual, fact-sheets, and website – describes the investment process in chronological steps. In the broadest sense the process can be segregated into four stages, reflective of the procedures for starting and operating a business in Guyana. Exhibit 1 illustrates the sequencing of the four stages — business start-up; site selection; site development; and business operations — against time.



During business start-up, Section I, foreign investors must determine the need for entry visas, though there are 40 countries that do not require such. All formal businesses (to differentiate from informal, often micro-enterprises) must be registered or incorporated depending on the ownership structure. The Deeds Registry is the agency responsible for registering or incorporating a business (whether single ownership, partnership or corporation). The Registry is also the place for registering trade marks, patents, etc. The ease, speed, and complexity of the process varies by the action performed.

Section II discusses the selection of land for a business. This section reviews differences in the process of acquiring state, government, private, and industrial estate lands. The process is further refined to delineate between selecting land in one of Guyana's 10 regions or in the municipality of Georgetown, where many of the centralised government agencies exist. As is often the case in other countries, securing land can be the most complex and time consuming step in the investment process.

Section III presents the steps necessary to develop the selected site. It is at this stage in the process that many of the permits needed to open and operate a business are obtained. The ease and speed of securing such permits varies by the office or agency issuing it. The step-by-step procedures for obtaining some of the more critical permits and licenses are outlined in this section as well as the process of land use approval and obtaining access to utilities.

Section IV, business operations, looks at the responsibilities of a business once it is operating. Among the topics considered are accounting and financial aspects, employment issues, customs, and annual permit/license renewals. Section V covers incentives to investment in Guyana. These incentives include among others tax breaks, export incentives, and industrial estates.

The Guyana Investor Roadmap in its different forms is a dynamic tool for use by investors and public servants alike responsible for assisting investors through each of the stages. As such, GO-Invest encourages, indeed seeks, feedback on the investment process for incorporating into regular updates of the manual, fact-sheets, and website. To do so, please contact:

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REFERENCE MANUAL SUMMARY TABLE

The following table summarizes the numerous actions required to start and operate a business in Guyana. The table is presented along the following lines:

Category	Description
Transaction	The action that is involved, e.g., lease land, obtain permit, etc.
Primary Agency Involved	Which government agency(ies) are involved in the transaction
Governing Act(s)	The regulations/laws driving the form and nature of the transaction
Form / Particulars	The forms and information that must be completed/delivered
Cost	Stated costs of the transaction
Time to Complete Target/Actual	Target represents government estimates; actual, private experience
Renewals	Are they required and frequency

In a dynamic investment environment changes are inevitable. The table that follows provides a “drive-through” menu of the actions an investor might undertake at different stages of the investment process. It is not all-inclusive; indeed it focuses primarily on the manufacturing industry and generic enterprise. It does offer an accurate abstract of the process, however, even if fees, forms, and duration change.

Guyana Investor Roadmap Summary

Transaction	Primary Agency Involved	Governing Act(s)	Form / Particulars	Cost	Time to Complete		Renewals
					Target	Actual	
Section I. Business Start-up							
Section I-B. Business Registration							
B-1. Proprietorship / Partnership	Natural Section of the Deeds Registry	The Business Names (Registration) Act (90:05) and the Partnership Act (89:02)	Business Name Registration form	There is a registration fee of \$10,000	3 weeks	3 weeks	
B-2. Incorporated Companies	Deeds Registry	Companies Act (29)	Article of Incorporation plus other particulars	Company Registration Share capital fee - \$1 to \$500,000 \$25,000 - greater than \$500,000 6 percent of share capital Duty on share capital 0.5 percent of share capital Certificate of Incorporation \$30,000 Notice of Directors \$800 Notice of Secretary \$800 Declaration of Compliance \$800 Changes to any of the above \$800 Changing Share Capital Share capital fee - up to \$10 million 2 percent of additional share capital - greater than \$10 million 1 percent of additional share capital Duty on share capital 0.5 percent of additional share capital Certificate of increased capital \$800 Resolution \$800 Certified copies of any of the above \$350 each PLUS any legal fees and the costs of gazetting.	2-3 days (not including time with the lawyers)	Varies	An Incorporated Company must file an annual return.
Section I-C. Trade Mark/Intellectual Property							
Registering Patents, Copyrights, Intellectual Property, and Trade Marks both local and previously registered in the United Kingdom	Notorial Section of Deeds Registry	Trade Mark Act (90:01)	Application to the Registrar of Patents, Designs, and Trade Marks	Filling \$100 Certificate \$200 Certificate renewal \$200 View registered trade marks \$300 Change name and address \$50 Filing UK registered mark \$100 Certifying UK registered patent \$500 Registering local patents \$500	6 months	Severe backlog	The certificate is good for seven years and renewable indefinitely every 14 years thereafter.
Section II. Site Selection							
Section II-A. State and Government Owned Land							
A. Lease State or Gov't Land	Lands & Surveys Division, Ministry of Agriculture	State Lands Act (62:02); Lands Department Act (59:01)	Lease application	Local maps are available at each Lands & Surveys office and cost around \$500; Lease Application \$10	1 year	Provisional lease: 6 months, Final lease: in excess of 1 year	The lease must be revalued every 5 years

Transaction	Primary Agency Involved	Governing Act(s)	Form / Particulars	Cost	Time to Complete		Renewals
					Target	Actual	
Section 11-B. Privately Held Land							
B-1. Purchase Transported Land	Conveyancing Section of Deeds Registry	Deeds Registry Act (5:01); State Lands Act (62:01) ; Lands Department Act (59:01)	Affidavits of sale/purchase. Certificate of Compliance from the Internal Revenue.	Registrar charges a fee of .25 percent (0.0025) of the purchase price; Gazetting fees; Attorney fees.	2 to 3 months	2 to 3 months	None
B-2. Purchase Titled Land	Land Registry Section of Deeds Registry	Lands Registry Act (5:02)	As for above	A transaction/registration fee is charged at .25 percent of the valuation or the purchase price, whichever is higher.	3 weeks	3 weeks	None
B-3. Leasing Private Land	Conveyancing Section of Deeds Registry	Deeds Registry Act (5:01); Lands Department Act (59:01)		The fee is .25 percent of the value of the land, plus 1 percent of the value of the structures on the land, plus .25 percent of the total value.	1 to 2 months	1 to 2 months	None
C. Industrial Estate Land	GO-Invest / National Industry and Commercial Investment (NICI) Ltd.	--	An implementation schedule for the investment and a floor plan for the structure. Application for an industrial plot at Eccles.	The annual lease rate is \$5 per square foot paid in monthly instalments to NICI Ltd. In addition to lease payments, the investor is responsible for reimbursing NICI Ltd. the costs of the estate's basic infrastructure; estimated at \$210 per square foot. One quarter of the amount owed (25 percent) must be paid prior to the issuance of a letter of confirmation, and this letter is required before a lease can be signed. The remaining 75 percent is paid in monthly instalments over 23½ years at 10 percent interest after a grace period of 18 months.	3 to 4 weeks	Varies	None
Section III. Site Development							
Section III-A. Engineering Authorities and Central Housing & Planning Commission							
Building Plan Approval	City Engineers / Authorities	Municipal and District Councils Act (28:01)	Completed architects drawings & application	Varies	1 to 2 mos	3 mos to 8 mos	None
	Central Housing & Planning	Town and Country Planning Act (Act 8 of 1996)		No charge	90 days	3 months to 1 year	None
Section III-B. Permit Offices							
B-1. Building Plan Approval	Fire Services Prevention Service	Fire Prevention Act (22:01)	Copy of CHPA plans	No charge	7 days	1 to 3 weeks	Annual inspections
B-2. Building Plan Approval	Occupational Safety and Health	Occupational Safety and Health Act (99:11)	Building Plans	None	7 days	2 weeks	1 week
B-3. Environmental Land Use Approval	Environmental Protection Agency	Environmental Protection Act (20:05)	Environmental Impact Assessment (EIA)	The application costs the Guyana equivalent of US \$40. Notification in the newspaper is around \$10,000. The permit fee is the Guyana equivalent of US \$200, US \$700 and US \$1,600 for small, medium, and large size firms, respectively. All costs associated with public meetings and consultative fees for the EIA process. These fees will be adjusted in 2001.	Min. 180 days if EIA is needed; 60 days if no EIA needed		

Transaction	Primary Agency Involved	Governing Act(s)	Form / Particulars	Cost	Time to Complete		Renewals
					Target	Actual	
B-4. Import/Export of Food/Drugs etc.	Food and Drug Department	Food & Drugs Act (34:03)	Building Plans	FDD will issue a license to operate, which costs \$1,500		Varies depending on location	Annual Inspection 1 st quarter
B-5. Building Plan Approval	Public Health Department	Public Health Ordinance (Chapter 145)	Building Plans	None	3 mos	3 – 6 months	Dependent of type of business
B-6. National Standards	Guyana National Bureau of Standards	--	None	None	N/A	N/A	None
B-7. Manufacturers Registration Customs and Trade Admin		Consumption Tax Act (80:02)	Application for Registration-Form 7	None	1 month	6 weeks	None
Section III-C. Utilities							
C-1 Water Service	Guyana Water Authority	Food & Drugs Act and regulations	Building Plans	No cost to apply. Costs incurred upon well drilling.	14 days to connect	Varies	None
C-2. Electrical Service	Guyana Power and Light	--	Building Plans	Connection charges vary by location and amount of work required to connect applicant	3 mos or more	3 mos or more	None
C-3. Telephone Service	GT&T	--	Application for Business Telephone Service	None	Varies	Varies	None
Section IV. Business Operations							
Section IV-A. Accounting							
A. Corporate accounting	Institute of Chartered Accountants of Guyana	International Accounting Standards (IAS) 2000, except for IAS 19 – Employee Benefits and IAS 39; Companies Act; Regulations under the Income Tax Act	Audited statements annually to the Authority	--	N/A	N/A	N/A
Section IV-B. Finance							
B-1. Taxes	Revenue Authority	Consumption Tax Act (80:02)	Reference number from any Revenue Authority office by a letter of request	None	1 day to 2 weeks		None
B-1a & b. Income Tax	Revenue Authority	Income Tax Act (81:01)	IITAS Form # 1- Non-Company Registration Input Form	As of October 2000, the income tax threshold was \$216,000, applied on a pro-rata basis according to the time worked during the year. The next \$134,000, pro-rated, is taxed at 20 percent and chargeable income above \$350,000, pro-rated, is taxed at 33 1/3 percent.	1 – 7 days		None
B-1c. Corporation Tax	Revenue Authority	In the Aid of Industry Act; Corporation Tax Act (81:03)	Reference number by a letter of request	45 percent for commercial companies and 35 percent for non-commercial companies; Commercial companies with turnover in excess of \$1,200,000 are subject to a minimum tax equal to the greater of the applicable corporate tax or 2 percent of turnover	1- 7 days		None

Transaction	Primary Agency Involved	Governing Act(s)	Form / Particulars	Cost	Time to Complete		Renewals
					Target	Actual	
B-1d. Capital Gains Tax	Revenue Authority	Capital Gains Tax Act	By letter	20 percent is levied on net chargeable capital gains in excess of \$1,000	1 day to 2 weeks		None
B-1e. Property Tax	Revenue Authority	Property Tax Act (81:21)	Property Tax Return	<p><i>For a person other than a company:</i></p> <ul style="list-style-type: none"> - Filing threshold is \$7.5 million of net property - For every dollar of the next \$5 million of net property .5% (.005) - For every dollar of the remainder of net property .75% (.0075) <p><i>For a company</i></p> <ul style="list-style-type: none"> - Filing threshold is \$1.5 million of net property - For every dollar of the next \$5 million of net property .5% (.005) - For every dollar of the remainder of net property .75% (.0075) <p>Submit Return by April 30th annually</p>			
B-1f. Consumption Tax	Customs and Trade Administration	Consumption Tax Act (80:02)	Consumption Tax Return	Varies between 0 percent and 30 percent	3 mos or more	3 mos or more	Submit a report by the 15th of each month
B-1g. Pay As You Earn Tax	Revenue Authority	Income Tax Act (81:01)	Individual Income Tax Return	The first \$216,000 of gross salary or wages earned on an annual basis is exempt from PAYE withholding. Depending on the frequency of payment, amounts less than or equal to the following are exempt from taxation: daily - \$591; weekly - \$4,153; fortnightly - \$8,307; and monthly - \$18,000. When gross income exceeds the threshold for the pay period, the PAYE tax is 20 percent on the next \$367 if paid daily; the next \$2,577 if paid weekly; the next \$5,153 if paid fortnightly; and the next \$11,166 if paid monthly. Amounts above these are taxed at 33 1/3 percent.	Varies	Varies	Taxes are to be remitted no later the 14th of the month following the month in which the deductions were made
B-2. Foreign Currency Controls (lending or borrowing foreign currency)	Bank of Guyana Commercial Banks	The Dealers in Foreign Currency (Licensing) Act (19); Foreign Exchange (Miscellaneous Provisions) Act (86:01)	Ministry of Finance must grant approval before anyone can lend or borrow foreign currency with a non-licensed dealer	Currently exchange rate	1 wk - months	1wk- months	None
Section IV-C. Labour							
C-1. Work Permits	Ministry of Home Affairs	Labour Act (98:01)	Request by letter	No charge except for the Mining sector-US\$200 per year	2 to 3 weeks	2 to 3 weeks	Valid for up to 3 years
C-2. Employment Guidelines	Ministry of Labour	Various Acts	N/A	N/A	N/A	N/A	N/A
C-3. Termination of Employees	Ministry of Labour	Termination of Employment and Severance Pay Act (Act 19 of 1997)	N/A	1 week's wages for each year completed for the first 5 years; 2 week's wages for each year completed for years 6 -10; 3 week's wages for each year completed in excess of 10 years up to a maximum of 52 weeks.	N/A	N/A	N/A
C-4. National Insurance	National Insurance Scheme under the supervision of the National Insurance Board	National Insurance and Social Security Act (36:01)	Applictn for Registrtn as an Employer; NIS Contribution Schedule	Employers contribute 7.2 percent and employees 4.8 percent on the first \$76,000 of eligible monthly salaries. (Employees over 60 and under 16 years old contribute zero percent and the employer 1.53 percent. Self-employed persons pay 10.47 percent.)	7 work days	14-21 days	Payments are due by the 15th of the following month.

Transaction	Primary Agency Involved	Governing Act(s)	Form / Particulars	Cost	Time to Complete		Renewals
					Target	Actual	
Section IV-D. Customs							
D1. Import of goods	Customs and Trade Administration	--	Application for Registration	FDD will issue a license to operate, which costs \$1,500	2 to 3 days	up to 7 to 10 days	N/A
D2. Export of goods	Customs and Trade Administration; Revenue Authority	--	Application for Registration	At least 24-hours notice is required to schedule an on site loading inspection. The cost is \$120.	48 hours	48 hours	N/A
Section V. Investment Incentives							
Tax holidays	Ministry of Finance	--	Letter	None	1 month	Up to 12mos	None
Duty Free status & waiver of consumption tax	Secretary of Treasury in the Ministry of Finance	--	Letter	None	1 month	Up to 12 mos	None

SECTION I

Business Start-up

This section reviews the requirements for a foreigner entering Guyana — the process for obtaining a work permit should a foreigner choose to establish a business in Guyana is discussed in Section IV - Business Operations — and the work of the Deeds Registry with respect to business and intangible property (trade marks, patents, etc.) registration.

A. Foreign Entry

Immigration officers have the authority to issue a visa for up to three months at the time of entering Guyana provided the entrant has a valid passport, with at least six months to expiration, and a return ticket to the country of origin. Guyana's foreign missions can also issue entry visas for Guyana if such is required for that country. Exhibit I-1 below lists those countries from which a traveler does not require a visa to enter Guyana.

Exhibit I-1. Countries from which a Visa to Enter Guyana is not Required
(as of October 2000)

Antigua & Barbuda	Australia	Bahamas	Barbados	Belgium
Belize	Canada	Chile*	Cuba**	Denmark
Dominica	Finland	France	Germany	Greece
Grenada	India***	Ireland	Italy	Jamaica
Japan	Korea	Luxembourg	Montserrat	Netherlands
New Zealand	Norway	Portugal	Spain	St. Christopher Nevis
St. Lucia	St. Vincent & Grenadines	Surinam	Trinidad & Tobago	United Kingdom
U.S.A.	Venezuela**	Sweden	South Africa	Switzerland

*Holder of diplomatic and special passport only ** Holder of diplomatic passport only *** Letter from Min. of Home Affairs required

B. Business Registration

Whether a single ownership (i.e., proprietorship), partnership (in any form), or company, for a business to have legal recourse and benefit from various incentives it must register. The *Business Names (Registration) Act (90:05)* and the *Partnership Act (89:02)* are the governing regulatory documents for single ownerships, partnerships, and agencies. The *Companies Act (29)* covers the registration of an incorporated business. Though three different Acts address the different business types, the government office for business registration of any kind is the Deeds Registry. A contact list is provided in Annex B, Directory of Investment Resources.

1. Proprietorship/Partnership

The process for registering a small business, loosely defined as an individual or a partnership of three or fewer people (though the partnership figure is not statutory), is simple relative to the registration of a company. The process begins with the completion of the Business Name Registration form [step 1], which is obtainable from the Deeds Registry (see Volume II, Annex A, Exhibit A-18, Registry). There is a registration fee of \$5,000. Upon submission, the Registry staff will check the particulars against other registered businesses and, if they do not conflict with those of previously registered businesses, will register the business and issue a certificate [step 2]. The research of particulars and issuance of a certificate takes about three weeks. The applicant can return to pick up the certificate at this time [step 3].

There is regional Deeds Registry office in New Amsterdam. It is responsible for Berbice. The Berbice branch can register business names and sole ownerships or simple partnerships, but not incorporated companies. Business registration applications are gathered daily, with certificates issued each Thursday. The office follows a similar process as the registry in Georgetown, but with fewer registered businesses to check, the processing time is less.

2. Incorporated Companies

Though straightforward, the process for registering an incorporated company is more involved than that for registering an unincorporated company. Engaging a competent lawyer to pull together the myriad particulars will be money well spent; the return on which is time saved.

The four-step company registration process begins with submission of the articles of incorporation in duplicate. In addition, it is necessary to submit a statutory declaration from an attorney that no signatory to the articles is under the age of 18, of unsound mind as determined by a court, or an undischarged bankrupt; statements naming the first directors and secretary and their consent to serve; and notice of the company's registered address must also be submitted. Annex C contains abstracts of investment related acts, with a description of what the articles should include, e.g., company name, registered office, class and number of authorised shares.

Upon submission, the Business Registry clerk will check the submission and calculate the amount owed [step 1]. (The fee is based on share capital. Exhibit I-2 offers a break down of the registration fees.) If there are problems, e.g., a similar and previously registered name, the applicant will be notified at this time. If the application is complete and correct, it is returned to the applicant, who takes it to the cashier and pays the fee [step 2]. When the fee is paid, the cashier takes the submission and routes it to the Company section of the Business Registry [step 3]. In two to three days the applicant can return to collect the company certificate [step 4].

Exhibit I-2. Company Registration Fees
(as of October 2000)

Company Registration	
<i>Share capital fee</i> - \$1 to \$500,000	\$25,000
- greater than \$500,000	6 percent of share capital
<i>Duty on share capital</i>	0.5 percent of share capital
<i>Certificate of Incorporation</i>	\$30,000
<i>Notice of Directors</i>	\$800
<i>Notice of Secretary</i>	\$800
<i>Declaration of Compliance</i>	\$800
<i>Changes to any of the above</i>	\$800
Changing Share Capital	
<i>Share capital fee</i> - up to \$10 million	2 percent of additional share capital
- greater than \$10 million	1 percent of additional share capital
<i>Duty on share capital</i>	0.5 percent of additional share capital
<i>Certificate of increased capital</i>	\$800
<i>Resolution</i>	\$800
Certified copies of any of the above	\$350 each

With the above fee structure, an investor may find it financially advantageous to register an initial share capital of no more than \$500,000, and then later increase it as necessary. For example, a share capital of \$500,000 attracts a flat fee of \$25,000. To increase the capital, say, by \$8,000,000 would cost an additional two percent or \$160,000; for a total cost of \$185,000 (\$160,000 + \$25,000). To register an initial share capital of \$8,500,000 would cost six percent or \$510,000.

An applicant need not file company by-laws when registering the company. However, as by-laws may be necessary to transact some business, e.g., to obtain a loan, the investor may want to consider doing so at the time of company registration. There is no charge for filing the by-laws. The investor takes two copies to the Registrar's office. The by-laws will be reviewed and certified, and one copy returned to the company.

3. Foreign Firm

Foreign companies are referred to as "external companies" in the *Companies Act*. The Act requires any external company transacting business in Guyana to register with the Business Registrar. As with an incorporated company, an experienced lawyer can save the foreign investor time and money in the long run by providing effective registration advice and services.

When the Registrar has received the necessary documentation, including a copy of the company registration from the country in which it is registered, along with the prescribed fees (which are the same as for a local registered company), the Registrar will issue a certificate and publish a notice of the registration in the Government's Gazette. (The gazette is a weekly publication of official notifications.) If an external company terminates activities in Guyana, it must notify the Registrar within 28 days of ceasing such operations. Likewise, the company must notify the Registrar of any fundamental changes ? name, objectives, directors ? within 28 days of such and pay the prescribed fees to register the changes. Many of the requirements of the *Companies Act* for a registered local company apply to external companies too, e.g., external companies must file an annual return the contents of which are outlined in the Act.

C. Intangible Property Registration

There is no separate Act in Guyana that covers intellectual property rights (IPR). The *Trade Mark Act (90:01)* is applied to patents, trade marks and designs. A new Act is expected that will address copyrights. Exhibit I-3, page 4, provides information on the cost of registration for trade marks and patents. It is not necessary to use a lawyer to register, but doing so may speed up the process and expedite resolution of trade mark disputes, if any occur.

There are three parts to the Act under which a business might register a trade mark. Part A applies to those trade marks that consist of a name, invented words, or a signature or other distinctive mark. Part B captures all other types of trade marks. Part C pertains to trade marks registered in the United Kingdom. Parts A and B follow the same procedures; Part C is slightly simplified.

A person seeking to register a trade mark or patent must obtain, complete and submit an application to the Registry of Patents, Designs, and Trade Marks [step 1]. Five copies of the trade mark should be submitted, one on the letter requesting registration of the mark and four on separate pieces of paper [1a]. If a law firm is representing the applicant, the package should include a letter stating that the firm can act on the applicant's behalf in the matter of registering the trade mark [1b]. The trade mark registry is checked for any previously registered trade marks sufficiently similar to the applicant's as to cause

confusion [step 2]. If none are found, the trade mark request is gazetted one time and the public has one month in which to file an opposition [step 3]. If an opposition is filed, the applicant is notified and the applicant and protesting party must then work it out [3a]. The Registrar will arbitrate if requested or the matter can be taken to court [3b]. If no opposition is filed, then the applicant receives a certificate of registration [step 4]. The certificate is good for seven years and renewable indefinitely every 14 years thereafter.

The process should take about six months, but is currently severely backlogged (the Registry is working on 1997 applications). However, despite the backlog, once the application for trade mark registration is submitted, the holder of the mark is protected and would have legal recourse through the Guyana court system, though this can be slow, or arbitration. Disputes that arise over trade marks that are not yet registered but applied for would be decided by the submission date of the application for trade mark registration.

If a trade mark has been previously registered in the United Kingdom (UK), then Part C of the Act applies. This section provides for expedited registration of UK trade marks. The item is gazetted immediately and, if there is no opposition, a certificate can be issued in about a month.

In a similar vein, UK patents can be registered, gazetted, and certified in about a month's time. Locally developed patentable items take much longer ? years. When applying, the inventor must provide a description of the item invented and, possibly, detailed drawings. As there is no proper patent examiner in Guyana, requests for patents are often sent to the University of Guyana, which provides an opinion. Based on a favourable opinion, the Registrar will grant a patent. A patent is good for 16 years and is renewable.

Exhibit I-3. Trade Mark and Patent Registration Fees
(as of October 2000)

Trade Mark Registration	
<i>Filing</i>	\$100
<i>Certificate</i>	\$200
<i>Certificate renewal</i>	\$200
<i>View registered trade marks</i>	\$300
<i>Change name and address</i>	\$50
<i>Filing UK registered mark</i>	\$100
Patent Registration	
<i>Certifying UK registered patent</i>	\$500
<i>Registering local patents</i>	\$500

SECTION II

Site Selection

There are four types of land in Guyana: state-owned, government-owned, private transported or titled, and industrial estates. The process for acquiring or leasing land depends on its classification.

When acquiring or leasing land, foreigners are treated the same as domestic investors. The *Status of Aliens Act (14:04)*, allows for an alien to be treated the same as a Guyanese citizen in the ownership and disposition of movable and immovable property "of every description." An alien may obtain title to such movable and immovable property in the same manner as a citizen of Guyana, whether through, from, or in succession to an alien or a citizen.

A. State- and Government-owned Land

Guyana is zoned and developed predominately along its Atlantic coast, while the interior is largely undeveloped and in many cases not surveyed. This undeveloped land, most of it owned by the State or controlled by the Government, provides investment opportunity. As noted in the accompanying box, there is a legal distinction between State and Government lands. While it is possible to purchase either type, it is far more common to lease.

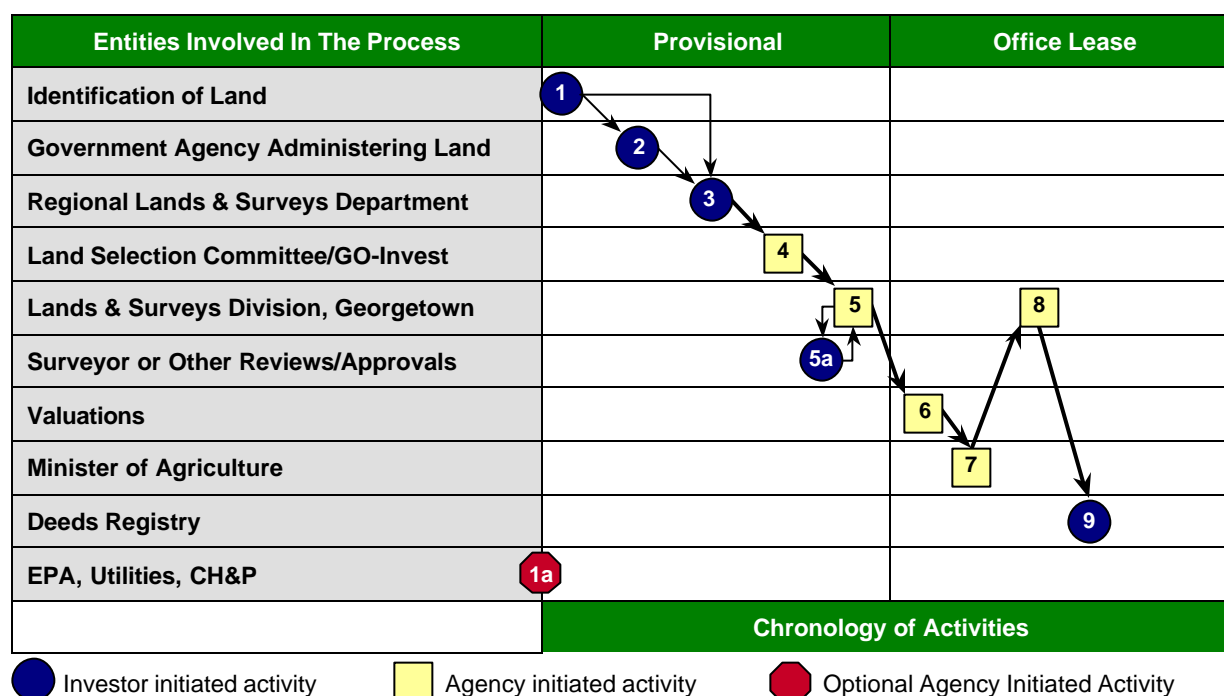
State or Government Land?

The terms State and Government lands come from the colonial era when all land was crown land. The crown would periodically parcel out the land and create colony land. When Guyana gained independence the crown land became state land and the colony land became government land.

The acquisition and lease of State- or Government-owned land are governed by the *State Lands Act (62:01)* and the *Land Development Act (59:01)*. Government-owned land is owned and administered by various Guyanese Ministries and, as will be seen, these various agencies add another step in the process of gaining a lease for this type of land. The process for leasing State- or Government-owned land is described below. At this time, the fee for a lease application is \$10. Though not required to initiate the process, a business registration is required by the time the lease is signed.

The investor initiates the lease or acquisition of State- or Government-owned land with a visit to the Lands & Surveys Division of the Ministry of Agriculture. This division is currently transitioning to a Commission, which will be structured as a quasi-public body. The Government of Guyana (GOG) will appoint the board that will govern the Commission, which is intended to streamline the leasing process. It is assumed that once the Lands & Surveys Division transitions to a Commission, many changes to the process will occur. One of these changes may be an increase in the fee for a lease application. For now though, the process consists of the steps illustrated in Exhibit II-1.

Exhibit II-1. Steps For Leasing State or Government Land



- Investor identifies site(s). It is advisable to identify several sites, as some may be unavailable. Local maps are available at each Lands & Surveys office and cost around \$500.

The Lands & Surveys office in the corresponding region is consulted to check availability of the parcel of land. The Lands & Survey office notifies the investor if the parcel has been surveyed.

At this stage in the process the zoning status of the land is needed so an investor may also consult with the Central Housing & Planning Authority (CHPA). The Lands & Survey Division may know if the land is zoned, but CHPA will have the official classification.

There are other parallel activities that may be carried out at this stage of the investment process. These activities deal with agencies that play a critical role in the site development as described in Section III, e.g., various utilities, CHPA, and Environmental Protection Agency (EPA). It is, therefore, beneficial for an investor to gather preliminary information from these agencies at this stage to ensure that the site selected meets the investor's needs and to make efficient use of time during site development.

- If the land is Government-owned, the investor must obtain a letter from the Government agency approving the proposed lease.
- After finding a desirable parcel of land the investor applies to the appropriate regional Lands & Surveys office.

4. The regional Lands & Surveys office passes the application to either the GO-Invest office or the regional Land Selection Committee, or in some areas to a District Land Selection Committee and then to the regional committee. The Land Selection Committee takes the decisions on the smaller local applications and GO-Invest is used for more novel or large-scale investment projects.

GO-Invest reviews an applicant's business plan, financial standing, and background. In the past it has also required a business registration but has recently begun to recommend applications that have no registry. Recommendations are based on a review conducted by the GO-Invest Chairman and CEO, as well as any technical personnel needed. The process takes between two and three weeks. Recommendations are sent to the Lands & Surveys Division, Georgetown.

For large-scale investment projects, a submission to GO-Invest should be made at the beginning of the process. This will allow GO-Invest to begin the review process in advance of the application arriving from the regional Lands & Surveys office.

Each region has a separate Land Selection Committee. However, each Committee is in a different state of operation. Some meet regularly and some are not functioning at this time. If the Land Selection Committee is not in operation then the application will have to be passed, by the investor in some cases, from the regional Lands & Surveys office to the NDC/RDC. For those committees that are reviewing applications, the application passes from the committee to the NDC/RDC.

The NDC/RDC will send approved applications to the Georgetown Lands & Surveys Division. Depending on the region, it can take at least two to five days and up to three weeks for the application to reach the central Lands & Surveys Division. The Lands & Surveys Division can grant a provisional lease at this stage. The Commissioner of Lands & Surveys has to approve the provisional lease.

5. The Georgetown Lands & Surveys Division reviews the application.
 - a. In cases where the land is not surveyed, the investor may wait for a government surveyor or hire a government approved private surveyor to inspect the proposed site. If the investor finds that the site is not surveyed, a surveyor can be contracted at the time that the application is submitted in order to speed up the process.

For State Forests and Mining, the Lands & Surveys Division works with the Guyana Geology and Mines Commission (GGMC) or the Forestry Division directly. Additionally, the Lands & Surveys Division may send the application to the EPA who will work on the environmental issues ahead of the lease being signed.

6. If approved, the Lands & Surveys Division develops a lease and submits the application to the Valuation Division in the Ministry of Finance. The Valuation Officer is responsible for assigning an annual lease rate. However, the lease rate is only an advisory to the Lands & Surveys Division, which defines the final lease terms. The Valuations Division tries not to create value, rather a recommendation is determined by:
 - a. Analysis of similar leases with respect to the geographic location, the type of business or type of use.
 - b. Any structural advantages that a business may have with respect to the site, as for example, proximity to utilities, transportation, or location within a municipality.

There are no regional valuation offices. The Valuation Division does not assign a value for small tracts of land in outlying areas. Rather, a predetermined rate is applied to the acreage under lease. The rates have not been revisited for some time, so to compensate a lease payment may be expressed in terms of multiples of the listed rate.

A lease should be revalued by the Valuations Division every five years. Lands & Surveys initiates the process by submitting the lease to the Valuations Division for revaluation. However, lately this process has not occurred on a consistent basis.

7. Once the Lands & Surveys Division has reviewed the application, it is passed to the Minister of Agriculture for formal approval. The Minister of Agriculture has set a target of one week to one month for approval. However, there frequently are delays.
8. When the lease is finalised the Commissioner of Lands & Surveys signs it.
9. Long-term leases must be registered with the Deeds (and Lands) Registrar by the investor. Other leases may be registered at the investor's option. Doing so, however, affords some protection should disputes arise.

The Commissioner of Lands & Surveys must approve subleases for land that is already leased. Formal application to transfer the lease is also done through the Lands & Surveys Division. The transfer has to be published in the Gazette three times over three weeks. The Commissioner then sends the file to the Minister of Agriculture for approval.

B. Privately Held Land

There are two types of private land in Guyana, transported and titled. The former is governed by the *Deeds Registry Act (5:01)*, the latter by the *Lands Registry Act (5:02)*. The two types of land are similar though they have different historical legal underpinnings. (The government will move completely to a lands registry system over the next three to five years.) When purchasing transported land, the "deed" passes from seller to buyer. When purchasing registered land, the "title" passes. The difference is more than semantics and has an impact on the transfer process. In both cases, much of the work will be carried out between the lawyers for the buyer and seller.

1. Transported Property

When the details of the sale are worked out between buyer and seller, a request is sent to the Deeds Registry to advertise the intent of the parties, along with two affidavits, one each from the buyer and seller (It is important that the affidavits, which explain what is to transpire and the particulars of the sale/purchase, appear as mirror images of each other with respect to the facts of the transaction). An announcement regarding the sale is then placed in the official gazette, which is published at least weekly. The information for the announcement is taken from the affidavits.

Once gazetted, the public is allowed 14 days to register any opposition to the sale, and 10 days from notifying the Registrar in which to file a writ with the court. Once filed, the writ effectively acts as an injunction. Opposition in most cases would result from someone who claims that the seller owes them money and/or who otherwise has a lien on the property. The property does not have to be mortgaged to the individual for that person to file an opposition. If no protest is filed and the vendor/buyer respond

quickly to any questions from the Deeds Registry, then officially passing the transport can occur in two months or less.

At any time during the process, the seller can furnish the required Certificate of Compliance from the Inland Revenue Department. (The Inland Revenue's compliance section is located in the GPO Building, Robb Street, Georgetown.) The transport can not be passed without this. Though the law does not require a Rates and Taxes Compliance certificate, the Registry will ask to see either a compliance statement or simply a receipt for applicable rates and taxes from the pertinent Town Council. (Rates and taxes refers to municipal taxes.)

Costs will include attorneys fees and the Registry charges a fee of .25 percent (0.0025) of the purchase price. The Act states that the person to whom the deed is passed is liable to pay fees, taxes, and duties. In practice, the government is concerned about collecting what it is owed, and not with whom actually pays. So the buyer and seller can negotiate their contributions towards any fees, taxes, and duties.

2. Titled Property

In the regions of Demerara and Berbice a land registry system, governed by the *Land Registry Act*, is also in use. In contrast to transported property, registered land is not gazetted as the onus is on those with claims against the seller to register those claims with the Registrar. If no encumbrances are on file, the title transfer process takes about three weeks. With registered land, title rather than a deed is transferred from seller to buyer.

The transfer process is similar to that for transported land. Both parties to the transaction submit sworn affidavits along with a transfer summary to the Lands Registry. The affidavits should be mirror images of each other and state the particulars of the transaction. The summary should be signed by both parties and summarise the affidavits. A transaction/registration fee is charged at .25 percent of the valuation or the purchase price, whichever is higher.

The transaction is not gazetted as it is the responsibility of a lender or anyone with a beneficial interest to file an encumbrance (e.g., that the land is mortgaged) or caveat on the property with the Lands Registry. A buyer would be advised to check with the Registry to ascertain if any claims are on file against the property in question. The Registry will notify anyone who has filed a beneficial interest of any intent to sell the property. The party with such registered interest then has six weeks in which to file a writ in court. Before the sale can be consummated, the Registry must receive either a letter from the party filing the beneficial interest that all is settled and the claim can be removed, or a notice from the court stating that no writ was filed in the prescribed time.

As with transported land, the seller must submit a Certificate of Compliance from the Inland Revenue and a Rates and Taxes Compliance or receipt of payment from the appropriate Town Council. In addition, the Inland Revenue may ask the seller to provide an affidavit of valuation for the purpose of ensuring that the seller pays the proper amount of capital gains tax due. Only the Valuation Division of the Ministry of Finance can provide this affidavit.

3. Leasing Private Land

Long leases (those equal to or exceeding 21 years) or leases that are renewable at the will of the lessee need to be registered. The process of transferring long leases is the same as for passing the transport on deeded land. The fee is .25 percent of the value of the land, plus 1 percent of the value of the structures on

the land, plus .25 percent of the total value. All valuations are current market value as certified by the Valuations Division.

C. Industrial Estate Land

All industrial estates in Guyana are held and operated by the National Industry and Commercial Investment Ltd. (NICIL). There are two operating industrial estates — Eccles and Coldigen — and three more in development at Lethem, New Amsterdam, and Belvedere. Coldigen has no plots available, while Eccles has only a few remaining sites as of September 2000. GO-Invest can take applications for all estates, but the Ministry of Trade approves requests for allocation of estate sites for each estate but Eccles. GO-Invest is the agency responsible for approving lease requests at Eccles. There is discussion about bringing all industrial estate site approvals under the control of GO-Invest.

An applicant must provide GO-Invest with an implementation schedule for the investment and a floor plan for the structure. An application for an industrial plot at Eccles is available in Volume II, Annex A, Exhibit A-14. GO-Invest will make a decision on the allocation of a plot within three to four weeks of receiving an application. In making its decision, GO-Invest considers, among other things, the nature and scope of the business, export potential, employment, use of domestic resources, level of investment, history of applicant, and ability to finance.

If approved, the investor receives a letter indicating the plot, payments, and any specifics as to what can and can not be undertaken at the site. When agreement is reached on the particulars, GO-Invest drafts a lease document for the signature of the estate holding company. Leases are initially for 25 years, renewable for an additional 25 years. The annual lease rate is \$5 per square foot paid in monthly instalments to NICIL.

In addition to lease payments, the investor is responsible for reimbursing NICIL the costs of the estate's basic infrastructure; estimated currently at \$210 per square foot. One quarter of the amount owed (25 percent) must be paid prior to the issuance of a letter of confirmation, and this letter is required before a lease can be signed. The remaining 75 percent is paid in monthly instalments over 23½ years at 10 percent interest after a grace period of 18 months. After signing the lease, and while awaiting building plan approval by the municipality or NDC, the lessee can begin basic foundation work; however, this preliminary work is a potential risk to the investor if the building plan is not approved or is delayed for a significant amount of time.

SECTION III

Site Development

The number of required approvals from various offices and agencies makes site development a challenge and, as with site selection, can be a frustrating process for domestic and foreign investors alike.

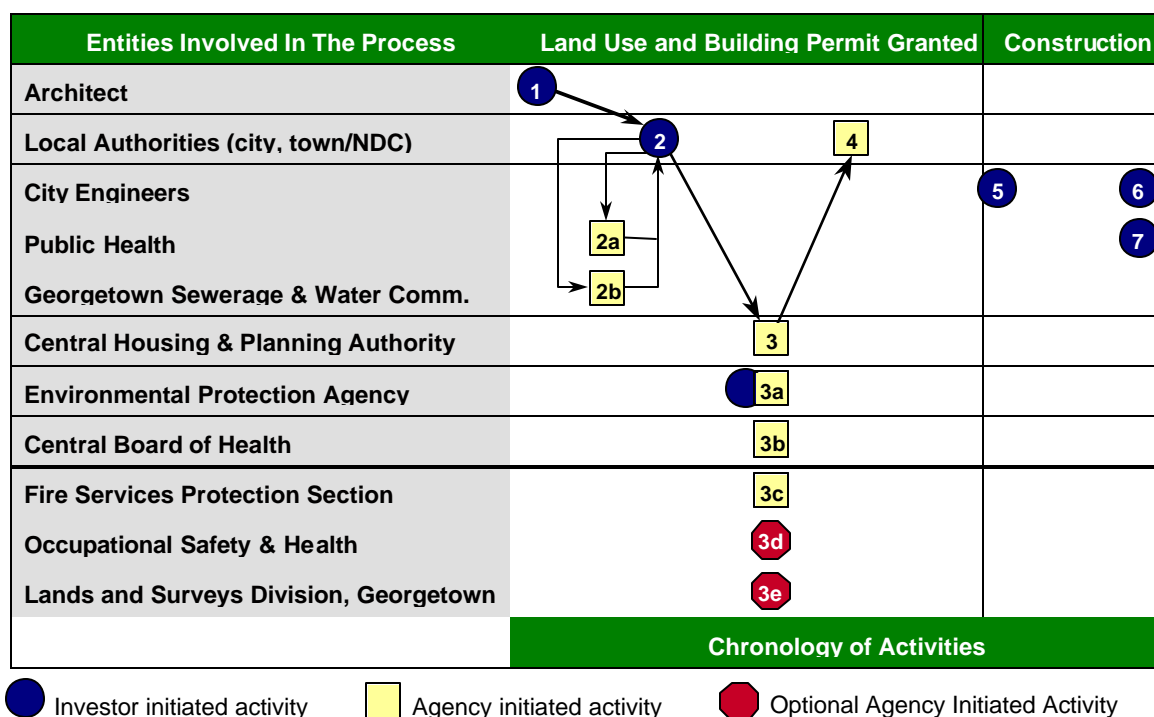
A Central Housing & Planning Authority

The Central Housing and Planning Authority (CHPA) is a statutory body that derives its authority from Chapter 20:01- the *Town and Country Planning Act* and is the body which is ultimately responsible building oversight for all of Guyana. The Board of the CHPA meets regularly and is comprised of representatives of the permit agencies and the Regional Administrations, among others. Approval for the construction of residential buildings has been delegated to the various local authorities, with some restrictions depending on size, height and location. All other building development in Guyana must be approved by the CHPA.

Each village, township and the city of Georgetown is administered by a Local Authority which derives its authority from Chapter 28:01- Tthe *Municipal and District Councils Act*, or in the cases of the townships and Georgetown, a Municipality.

The process for obtaining land use and building approval is similar from region to region and as compared to the process in Georgetown. It should be noted that Georgetown is the most developed of the Municipalities and Local Authorities. As such, variations occur in some regions due to resource issues. The typical process is illustrated in Exhibit III-1, Site Development. On paper the route to approval could take as little as three weeks. In practice though, the review process can exceed this ideal target, and be a confusing and frustrating undertaking.

1. The first step begins with the investor completing architectural drawings and an application from the Local Sanitation Authority within the relevant Local Authority or from the Municipality (if in urban areas) or from the City Engineers Department (if within the Georgetown area), which must recommend all new buildings as well as renovations. As various permits and approvals/ recommendations (e.g., building, land and space use, health, fire, etc.) depend on these drawings, an investor cannot begin the process without them.
2. Once the building plans are developed, the investor applies to the City Engineers Department, if the site to be developed is within the Georgetown area, or its equivalent within the respective Local Authority or Municipality. The City Engineers or its equivalent in other areas reviews the documents and the investor submitted application.
 - 2a. When an applicant submits the plans to a municipality, the Public Health officer (in some places referred to as Environmental Health officer) for that municipality must vet them. The officer will look for spacing, sanitary and disposal facilities, lighting, ventilation, drainage, and distances and boundaries. If the plan meets the regulations, the officer will recommend it to the municipality. Some municipalities lack staff so they may outsource this service. For example, Linden has retained outside expertise to review plans on a monthly basis.

Exhibit III-1. Site Development

2b. In the case of Old Georgetown, the City Engineers Department sends the application and proposal to the Georgetown Sewerage & Water Commission (GSWC) recommendations and approval. This additional step in the process is due to the increasingly stretched sewage capacity in Georgetown. As a consequence, an additional sewage line may be necessary for the building if the Sewage & Water Department determines a lack of capacity.

3. If the building plans are approved by the Local Authority and the Council agrees with the recommendations of the City Engineers, the Council then passes the application and proposal to CHPA. The plans are delivered to CHPA in Georgetown by a municipal official; however, in many cases the investor would deliver the documents.

When it receives the file from the Council, CHPA will contact the applicant if the requisite number of copies are not enclosed and request that the CHPA be provided with multiple copies for distribution to the various permit and approval agencies as shown in Exhibit III-1. (Collectively referred to here as the permit agencies, their individual review procedures are discussed in part B to follow.)

- 3a. If the land requires an environmental impact assessment (EIA) then CHPA will alert the EPA before any other agency of the investment activity. The EPA will conduct the review of the file and if an EIA is determined to be needed then the EPA procedures, as described in section B-3 to follow, will be completed before the application is sent any further.
- 3b. If the land is not yet zoned or the intended use is for a noxious or offensive trade, then the CHPA will send the application to the Central Board of Health (CBH) for review and recommendation. CBH will consider the suitability of the site for the proposed business, likely nuisances, and the

Public/Environmental Health officer's recommendation. This side step may add three months or more to the process. (CBH's participation in rezoning land, i.e., when land is zoned but not for the purpose intended by the applicant, is not clear and an investor is advised to explore this with both CHPA and CBH.)

- 3c/d/e After EPA and CBH approvals are received (if they are required at all), the CHPA will simultaneously send applications out to the Fire Services Prevention Section, Lands and Surveys Division, and Occupational Safety and Health Authority.
4. Except for the Fire Service and the EPA, CHPA does not have to send the plans to the other agencies for approval/positive recommendations. Approval may be granted by the CHPA, although in practice the CHPA does send the majority of the applications to the various permit agencies for approval/positive recommendations. After CHPA has received notification and approval/positive recommendations from the permit agencies, it approves the plans and returns them to the originating agency that notifies the investor of the issuance of a building permit. In some cases this notification might come from the City Engineers Department, and in others this notification might come from the Local Authority. (In some cases the Ministry of Public Works may need to recommend the plans where the development is along a major highway. In addition, if the development is to take place at a junction or area that is likely to create traffic problems, then approval from the traffic department may be required.)
 5. Once construction has begun, the investor must notify the City Engineers Department, or its equivalent in the rural areas, within 30 days from the beginning of construction, and again once the structure is completed. This notification should come in the form of a letter. The City Engineers Department makes onsite visits and inspections during the construction process in order to ensure that revisions to the building plan are adhered to. Once notified that construction has commenced, the City Engineers notify the Fire Services Prevention Section, the Public Health Department, and the EPA. All three agencies may also make on site inspections during construction.
 6. The investor must also notify the City Engineers Department, through a letter, 14 days prior to the completion of construction. Once again, the City Engineers Department may make a visit to the construction site to ensure compliance with building codes.
 7. In the case of some buildings such as restaurants, the investor must also obtain a certificate of fitness from the public health authority, may be the Public Health Department or the Central Board of Health.

B. Permit Offices

1. Fires Services Prevention Section

The Fire Services Prevention Section (FSPS) is an office under the Guyana Fire Service Department of the Ministry of Home Affairs. The FSPS is governed by the *Fire Prevention Act (22:01)*. It is one of several authorities that play a role in the construction of a structure. FSPS is working closely with the Guyana National Bureau of Standards to finalise a building code, which should be in force by the end of 2000. The regional offices are not authorised to inspect and certify. Only an officer of FSPS from Georgetown can do this.

When applying for a building permit, it is best to submit multiple copies, four or more as directed by City Engineers or the local authorities. These copies make their way to CHPA, of which one is sent to FSPS. FSPS is the authority on fire safety and must provide CHPA a fire safety opinion before CHPA will approve the plans.

FSPS tries to respond to CHPA within 30 calendar days of receipt of an application and building plan. The response most often takes the form of a letter stating FSPS' approval or the changes that are required. If changes are necessary, it is up to CHPA to contact the applicant. If it is obvious on the application how FSPS can contact the applicant directly, it will do so, enabling the applicant to address the problems immediately and directly with FSPS. FSPS can then send one letter to CHPA indicating approval along with the revised plans, rather than later revisiting the application and the changes made if passed by the applicant back through CHPA.

FSPS will often inspect a premise during construction, though this is somewhat haphazard as they are not formally notified of when construction begins. Post-construction, FSPS must inspect the premise before issuing a Fire Safety Certificate. An investor is best advised to notify them directly rather than relying on another office, division or section to do so. This certificate must be renewed annually. In practice, renewals are done during the first quarter of the year.

If the business is located within an existing building and the operator makes changes to the premise, then the same approval process is followed. If no changes are made, then only an annual inspection is required.

2. Occupational Safety and Health (OSH) Authority

Safety and health in the work place is governed by the *Occupational Safety and Health Act (99:11)*. Currently the government is working to establish the regulations to enforce the act. For now, the *OSH Act* incorporates many of the regulations contained in the repealed *Factories Act* for oversight, enforcement, and monitoring purposes. In addition, OSH is working with the Guyana National Bureau of Standards to establish standards and guidelines for the workplace.

The objective of the Occupational Safety and Health office is to improve the working conditions and environment with an emphasis on preventative rather than curative measures. This prevention occurs through inspections, audits, investigation of accidents, and training.

Though the OSH review process does not cost the investor directly, an applicant may find it advantageous to hire private consultants to assist with various aspects of the review. The parts of the process where OSH is involved are as follows:

- a. During the building approval stage, the investor submits the building plans for approval by OSH. However this does not occur in practice, so OSH has developed a system where CHPA sends the plans to OSH for approval as described above.
- b. If changes are required to the building plan, then OSH recommends alterations to CHPA and the applicant. The investor must then resubmit the revised plans to CHPA, which sends the new plans to OSH. This process is repeated until OSH is able to approve the building plan.

An investor could perhaps accelerate the approval process by submitting a copy of the plans with a letter outlining the project to OSH at the same time as CHPA. If changes were required, then the

investor would save time by working directly with OSH to make the changes and then submitting the revised plan for final approval.

- c. Once OSH is satisfied with the building plan, it is approved and sent back to CHPA.
- d. The *Occupational Safety and Health Act* states that “within 30 days after the industrial establishment commences to operate as such, in the case of a new industrial establishment...[it must] make application to the Authority in the prescribed form for the registration of such industrial establishment”. The registration is done on “Factories Schedule Form 1, Application for Registration of a Factory, Factories Regulations, Reg. 2 (1)”, which is located in Volume II, Annex A, Exhibit A-12. Registration typically takes a week to process.

Once registered, OSH can make random and unannounced visits. If the plans were not submitted ahead of time and OSH makes an inspection that reveals structural problems then the business could be shut down until those issues are resolved. The registration has to be renewed every year.

The OSH registration form has been redesigned, as has been the certificate of registration. The new forms, which are not in official use until approved by the office of the Attorney General, are included in Volume II, Annex A, Exhibit A-17. The use of these forms, once approved, will not change the review and approval process.

If a business has more than 20 employees, then it must create a safety and health committee. If there are more than five employees then a safety and health representative must be appointed. OSH provides periodic training for these committees and representatives.

If there is an accident in the workplace then a firm must submit a “First Schedule, Factories Act, (Notification Act), Notice of Accident” form (example included in Volume II, Annex A, Exhibit A-17). It should be noted that new forms are being developed by OSH and will be released soon.

An appeal process exists on paper through the office of the Safety and Health Commissioner. This position, however, is not filled at the moment. If a party has a complaint an unofficial system of appeal exists with the Ministry of Labour and a formal system through the courts.

In terms of regional co-ordination, OSH has an office in Berbice where an OSH representative has complete authority to make decisions and approvals. The other regions receive visits from an OSH representative from Georgetown on an as needed and available basis. It is through these visits that OSH makes its inspections and verifies information provided by investors through their application. (In some cases, OSH might use a Regional Executive Officer to verify applicant information.) Short of a visit from an OSH inspector, an investor in an outlying region must travel to Georgetown to meet with OSH representatives.

3. Environmental Protection Agency (EPA)

Founded under the *Environmental Protection Act of 1996*, the EPA is a relatively new agency in Guyana. Perhaps more than any other government agency, the EPA has been able to define its regulatory process and the corresponding time necessary to navigate this process. The best source for additional information about the EPA is its Web site at <http://www.sdn.org.gy/epa/>.

As it is relatively new, the EPA is still developing its operational relationship with the regions. In one case, the EPA has signed a memorandum of understanding with the Ministry of Local Government that allows for basic monitoring by a designated regional representative. EPA has signed similar agreements with the Guyana Geology and Mines Commission (GGMC) and the Forestry Commission.

The objective of the EPA is to co-ordinate the prevention and control of pollution, co-ordinate the conservation and sustainable use of natural resources, and promote environmental management. As noted on the EPA Web site, the promotion of environmental management is centred on five principles:

- The *polluter pays* for the cost of damage to the environment.
- *Precautionary* measures are taken to avoid environmental damage.
- *Strict liability* penalties are imposed on those who cause environmental damage.
- *Avoidance* is best as it may be impossible or more costly to repair damage than prevent it.
- Technologies used to prevent and repair environmental damage will reflect *the state of technology*.

In accordance with the act, an investor must seek EPA approval before beginning to develop a site. For projects that may significantly affect the environment, an Environmental Impact Assessment (EIA) may be required. Annex B identifies those investment activities that require an EIA. In addition, the EPA has the discretion to require an EIA for any development activity based on a site visit and the EPA application. Depending on the outcome of the EIA, an environmental authorisation may or may not be issued. In the case of existing business, an operations permit is issued and an environmental permit is issued for new investments. Exhibit III-2, next page, illustrates the EPA/EIA approval process. The investor bears the cost of all EPA fees.

- The application costs the Guyana equivalent of US \$40.
- Notification in the newspaper is around \$10,000.
- The permit fee is the Guyana equivalent of US \$200, US \$700 and US \$1,600 for small, medium, and large size firms, respectively.
- Additionally, the investor is responsible for all costs associated with public meetings and consultative fees for the EIA process.

If the investor does not initiate activity with the EPA, the agency has the same mechanism in place as OSH where CHPA passes along the application during the building approval stage of the process. The EPA is also alerted to investment activities through local authorities or sectoral agencies. Many EIA type activities will actually be carried out by the sectoral agency in charge of investment activity in the sector. The EPA will then evaluate the sectoral agency's report. It should be noted that it is an offence to proceed with building development without the necessary environmental authorisation.

The EPA has a formal appeals process. However, the EIA process has yet to receive an appeal by an investor. Appeals go through a tribunal that is comprised of senior government officers. Additionally, an Environmental Assessment Board has been established to review EIAs.

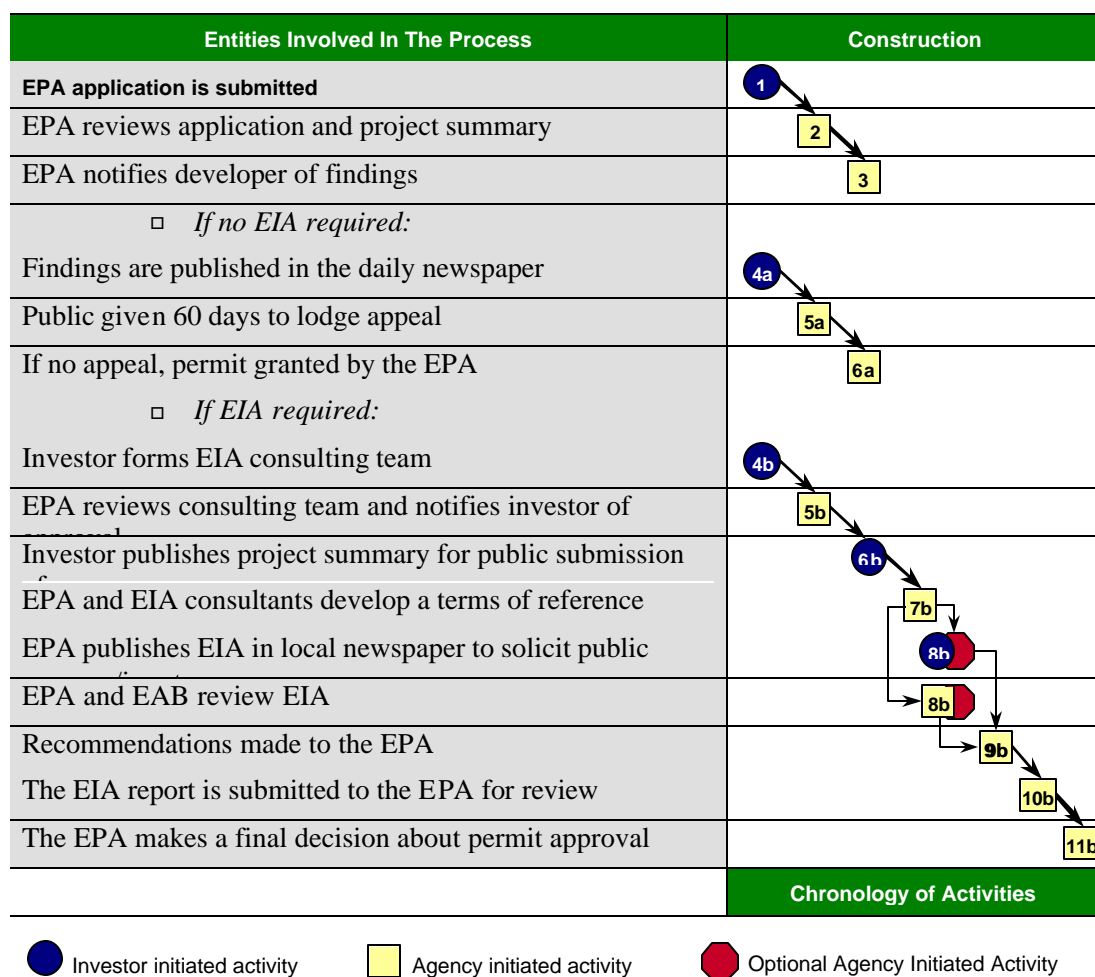
Steps 1 through 11b, as depicted in Exhibit III-2 for an EPA/EIA approval, are as follows:

- 1-3 A summary of the project is submitted to EPA by the investor. However, EPA may be notified of investment activity from the sectoral agency involved in the process such as the Guyana Forestry Commission, GGMC, Ministry of Agriculture or the CHPA.

If a business changes its output or focus of production the EPA must be notified. The EPA will review the changes and may require an EIA if the change is significant. If the EPA decides that the production changes do not require an EIA, a simple change in the existing environmental management plan may suffice.

The submission of an application is not limited to leased land. However, with respect to leased land, often investors wait until a lease is granted before submitting an EPA project summary. The Lands & Surveys Division may issue a lease with the condition that environmental authorisation is obtained from the EPA before the land is accessed.

Exhibit III-2. EPA/EIA Approval Process



An investor takes a risk of spending money for an EIA on land that may not be leased if choosing to submit a project summary to EPA at the earliest possible date. However, if a lease is granted and an EIA has not been conducted the investor runs a converse risk of holding a lease on land where an EIA concludes that the proposed investment is not permissible. Therefore, an investor should factor in both time and monetary risk when choosing the stage of the investment process appropriate for EPA project summary submission.

- 4a-6a. If the EPA determines that no impact assessment is needed then a permit is given after 60 days. During those 60 days the EPA publishes the decision to grant a permit in order to allow for public appeal in accordance with the act.
- 4b. If the EPA determines that an EIA is required, the 9-step process will take, at a minimum, 180 days. The EIA process is summarised in Exhibit III-2, steps 4b-11b, on the previous page.
- 6b. The public has 28 days to express concern by letter to the EPA. Increasingly the EPA is holding meetings in both Georgetown and the locale of the investment as another means by which to give the public a chance to voice concerns.
- 8b. During the allocated 60-day public review period, the Environmental Assessment Board reviews the terms of reference and fields public concerns and input in order to develop a recommendation.
- 9b. The EPA receives recommendation from the Board. This can include requests to expand or revise the EIA to provide additional information.
- 10b. The EPA makes its decision based on its own review and the Board's recommendations. If a permit is granted it is accompanied by a set of conditions to allow for proper environmental management.

4. Food & Drug Department

The Food & Drug Department (FDD) monitors the quality of locally processed and imported pharmaceuticals, food products, bottled water, cosmetics, medical devices, and the quality of inputs used in the domestic processing of these items, as well as the labelling of all such products. Part of the Ministry of Health, the FDD's role is defined in the *Food & Drugs Act(34:03)* and regulations. The act and regulations are being revised, as many aspects of both are outdated and no longer applicable.

In general, the Department's focus is more on imports and locally processed items sold on the domestic market than on exports. In order to obtain approval to import those categories of goods that fall under the purview of the FDD, the investor must have adequate facilities to store the goods. He must also supply documentation from the country of origin on the safety of the foods being imported and all products must be date marked with all labels in English. When required by law (as for example for items containing alcohol), for duty calculation, or for an importer concerned about quality, the FDD will perform and issue certificates of analysis.

Domestic processors should contact the FDD for an inspection before they begin operation. The FDD requires about a week's notice and application on the prescribed form. Upon application, the investor is required to submit detailed documentation on the entire operation, including flow diagrams of the expected processing, information on the product and an example of the labeling to be used. In addition to an examination of the physical premises and a review of the processing process, the FDD will need to have a pilot batch processed, which will be taken for testing. If the premises and the product meet the required standards, the FDD will issue a license to operate. Exhibit A-6, Food and Drug Department, in Volume II, Annex A, provides a more detailed description of what the inspectors look for when examining a business.

5. Public Health Department/Central Board of Health

The emphasis of the Public Health Department, which is represented on and reports to the Central Board of Health (CBH) and is part of the Ministry of Health and Labour, is now on environmental health. As such the department examines building plans to ensure that environmental issues – factory and human waste disposal, drainage, water – are adequately addressed. Before CHPA can approve any building plan, the Public Health Department must furnish CHPA with a favourable recommendation. (See discussion of Exhibit III-1, Site Development, for a synopsis of what the department considers in its evaluation.)

In addition to ratifying the building plan, certain operations defined as "offensive trades", e.g., fish processing, require a certificate of fitness before operations can begin. The CBH, or the Public Health Department on behalf of CBH, is responsible for issuing this certificate.

At the regional level, building plans are submitted to the Neighbourhood Democratic Council (NDC), which forwards them to the health department's representative, the Public/Environmental Health Officer, for review. This officer must approve the plans before construction can begin. If approved, the plan is forwarded to CHPA in Georgetown. In turn, CHPA forwards the plan and approvals to the Public Health Department, representing the Central Board of Health, which must approve the plan before CHPA will issue a permit. This process can take three months or more, as the relevant departments meet monthly.

6. Guyana National Bureau of Standards

Though not responsible for enforcement, the Guyana National Bureau of Standards (GNBS) is drafting a building code that CHPA, NDCs and Town Councils will be responsible for enforcing. Completed sections of the code include plumbing; electrical; timber, concrete, and block masonry; fire and safety use and occupancy; structural steel; and administration and enforcement. These sections are available for \$3,000 each. The GNBS is working on evacuation and foundation; loadings; tall structures; and medium sized buildings.

7. Manufacturers Registration – Industrial Estates

To obtain a manufacturers registration a business must submit a completed form (Volume II, Annex A, Exhibit A-14, Industrial Estates) to the Customs Office in Georgetown or New Amsterdam. The form requires that the manufacturer state the projected sales and the approximate value of the inputs. The form is submitted to the Consumption Tax Department along with a copy of the business registration or certificate of incorporation.

A custom's officer will inspect the premises to verify authenticity and production capacity. After the inspection, Customs will notify the manufacturer of the value of the bond or collateral that Customs will require the manufacturer to post to cover potential consumption tax liability.

Upon receipt of the bond, Customs issues a Consumption Tax Certificate of Registration, which includes the manufacturer's unique consumption tax number. This number is different from the income tax number or business registration number, and must be included on all import and export documents.

C. Utilities

An investor establishes utility services through one of the following entities: the Guyana Telephone & Telegraph Company Ltd. (GT&T) for phone, voice, data, Internet and cellular connections; the recently

privatised Guyana Power and Light Inc. (GPL) for electricity; and the Government-owned Guyana Water Authority (Guywa) for water service. There are, however, several exceptions to these utility providers. In Old Georgetown, before a site can be developed, an investor must seek approval from the Sewage and Water Commission. In Linden, the Linden Power Company Inc. generates electricity and the Linden Mining Enterprises Ltd. manages water. In the Lethem area electricity is generated by Mocha-Mocha. In Berbice, in addition to GT&T, Caribbean Telecommunication Ltd., another privately owned company, also provides cellular service.

The availability of service from each utility varies depending on the location of the business. For instance, many outlying areas may not have access to one or all of the utilities. As noted in Section II, during site selection an investor will want to determine the services available to the chosen site before acquiring it. This consideration should be a priority for an investor because many sites lack utility services, which may be difficult and costly to obtain, if at all. For example, New Amsterdam has a zoned industrial estate. To date, however, no discussions have been held with GPL to review possible specialised needs, such as the construction of sub-stations, which would result in cost and time delays for an investor.

The process for obtaining utility services is similar for all three utilities. The investor contacts the utility in question [step 1]. A survey is completed to determine availability of desired service in the area and the cost, if any, of extending the service if it is not presently available [step 2]. The utility will then provide an estimate of the cost and, if accepted, in some cases a temporary connection during construction or service extension [step 3].

Many of the regions have different conditions surrounding the availability and connection of utility services. It is recommended that an investor consult the local branch of each respective utility to obtain specific guidelines. The following descriptions of utility access contain case studies, which are meant to illustrate some of the different conditions that exist in the various regions.

1. The Guyana Water Authority

The Guyana Water Authority is responsible for the supply of all potable water in Guyana, with the exception of Georgetown. Responsibility for potable water within the boundaries of Georgetown rests with the GSWC; however, this entity is expected to be absorbed into Guywa within the next 12 to 18 months. Additionally, Guywa is currently in the process of taking over the water functions from Linmine in Linden.

As the provider of potable water in Guyana, Guywa monitors and regulates the quality of drinking water and approves the drilling of all wells. The approval of wells are evaluated by the capacity of the well to provide water, the need to control water usage and waste, and the need to protect Guyana's aquifer. Currently there are enough wells to meet expected demand. As a result, Guywa expects to propose downsizing their drilling department, and outsourcing some future drilling efforts. Additionally, Guywa is working to make the provision of water more efficient by closing some wells or linking them to others in the area. Also, Guywa will soon be moving toward "water factories" which will disinfect, filter, and chlorinate public water. These factories will soon be in operation in both industrial sites near Georgetown.

An investor should follow the following procedures with respect to water access for the business site:

Georgetown. During site development the plans for the site are sent to the Central Board of Health where Guywa has a representative. In order to be approved the building plan must have GSWC certification. In the event that GSWC isn't able to provide a water source, the investor can either include the construction

of large storage tanks on the site or propose drilling a well on the site. The latter requires Guywa's input and approval.

Outside of Georgetown. Each region has some nuances for accessing water but the general procedure is that the investor will require a letter from Guywa certifying that water supply is available. If Guywa can not deliver water then a letter approving a new well is required before building plans can be approved. The general procedure for accessing water in the Regions includes the following:

- a. After site selection, the investor formally applies for a water connection using the designated form (See example in Annex A, Exhibit A-11, Guyana Water Authority.)
- b. Guywa has set a target of seven days to process the application. Once inspection has occurred a connection fee [and specifications] is determined.
- c. Service connection is usually made in less than 14 days after Guywa has received payment. The fee varies depending on the quantum of water the site will need. For example, a ¾ inch connection is \$10,000 and a 2-inch connection is \$15,000.
- d. For all new constructions Guywa must approve the 'water system' as outlined by the building plans. This is usually done through the CHPA where Guywa has a representative, but Guywa recommends that the investor obtain pre-approval directly from Guywa in order to facilitate efficiently the building approval process.
- e. After construction and the service connection are completed, the investor will be metered. Bills are paid on a monthly basis and are based on actual readings.

Other specific regional considerations are as follows:

Region 6 – New Amsterdam. In New Amsterdam Guywa provides water to 70-80 percent of the areas in the region. Guysuco provides water for about another 20 percent. Plans are in place to have Guywa take over Guysuco water systems. Of Guywa systems in the region, about 60 percent are either new or recently rehabilitated. In addition there are still major capital works taking place. By the end of year 2000 about 80 percent of the system was to have been rehabilitated. Potential investors should speak to Guywa before deciding on the site; Guywa will then investigate. It should be noted that as a policy Guywa will not provide water to a squatting or unregulated zone.

If the site selected is not located near Guywa lines, the investor would be provided with an estimate from Guywa about the cost of providing water to the site. Guywa or a privately hired contractor may complete the connection. If a private contractor is used the quality of labour and materials must meet Guywa specifications. Additionally, all private wells require Guywa's approval. At the time of approval, the well is registered by Guywa who will monitor the rate of extraction of water. In such cases, the owners of wells are required to pay an annual fee, which includes a well registration fee.

Region 2 - Essequibo Coast. At present, pumping capacity along the Essequibo coast exceeds demand. Currently, Guywa is overproducing by four times the demand and with the distribution system being rehabilitated, Guywa is well placed to meet any request in this region, at least along the coast.

2. Guyana Power and Light Inc.

If electricity is in the area, GPL will request an investigation fee of \$2,000. It will take about three to four weeks after payment to have GPL investigate and prepare an estimate for the client. This estimate is necessary since the client, even if near to the power source, may need relays or other technical equipment to ensure a constant and reliable source. The investigation provides an estimate of how far current lines are from site. Another three to four weeks are necessary after the payment of the estimated costs, to source and install the equipment. During construction GPL will assess the workmen's needs and upon payment of the appropriate fee (will differ from case to case), will install a temporary line, which is not metered. After construction is completed the building has to be certified by the Government authorities before GPL will make the connection for the permanent supply of electricity. High demand customers' meters are read and billed monthly.

Region 2 – Essequibo Essequibo Coast. For existing supply, no major problems experienced except for unscheduled outages.

Region 6 – New Amsterdam. Responsible for all power supplied to the county of Berbice. Clients should apply three to four months before service date. This may be done by letter, which should state all the technical details of the expected supply. If there is no power in the area, or it is uneconomical to the client to have GPL supply, the client can take steps to obtain his supply from a secondary source, e.g., generator.

Region 10 – Linden. Linden Power Company will only connect power to the building after the investor receives an Inspection Certificate from the appropriate department within the Ministry of Works in Georgetown. An investor should check with Linden Power Corporation regarding the procedure.

3. Guyana Telephone and Telegraph Company Ltd.

In 1991 Atlantic Tele Network, Inc. acquired 80 percent of the Guyana Telecommunications Corporation with the Guyana Government retaining 20 percent. As a result of this transaction GT&T was formed on January 28, 1991. Guyana has advanced much in its telecommunications infrastructure since the time of the privatisation, but there are still pockets where service is not available.

GT&T has worked to upgrade the Guyana telecom infrastructure in the last 10 years by upgrading existing technologies and introducing fibre optic systems, digital switching, and cellular and wireless service. This upgrade in infrastructure has been complimented with an effort to create broader and deeper services. By their own account, GT&T repairs 75 percent of all faults within 48 hours and the fault rate on lines has dropped.

GT&T normally operates on a three-year development plan. During the final year of each plan, the following three-year plan is approved after discussions with the stakeholders and the business sector. Businesses wishing service within the scope of the approved development plan are normally attended to with expediency. Small businesses are assigned two lines while medium and large businesses would receive their full requirement.

However, if the service is outside of the planned development, a survey would need to be done at a fee which the investor must bear. This will determine the cost of taking the service to the location. Depending on the location of the business and also whether the requested service is of a temporary or permanent nature, GT&T will provide the investor with various options, e.g., leasing or ownership of the equipment.

Usually, GT&T will require a deposit of 50 percent of the cost as determined by the survey. Completion is expected no later than three months after the deposit. The balance is to be paid after installation to the investor's satisfaction; terms of payment may be negotiated with the Company. Investors may obtain details from GT&T's Corporate Web site via their Guyana Online Home Pager at <http://www.gol.net.gy>.

SECTION IV

Business Operations

A Accounting

The *Companies Act (29)*, which targets incorporated businesses, and several income tax related acts require companies to keep and maintain proper books of accounts. These records must be kept at the registered office or another place so designated by the board of directors. If kept outside Guyana, the books must be returned periodically to permit the tabulation of annual financial statements.

The Institute of Chartered Accountants of Guyana is considered the "local accounting body" responsible for establishing auditing requirements for companies registered in Guyana. In this regard, the Institute has adopted the accounting principles and disclosures contained in the International Accounting Standards (IAS) 2000, except for IAS 19 - Employee Benefits and IAS 39 - Financial Instruments. Each company must complete an annual audit based on the principles of IAS 2000. The Inland Revenue Department also requires that a company submit annual audited statements.

The *Companies Act* provides guidance on the types of records and accounts a company must keep. Regulations under the *Income Tax Act (81:01)* require every person carrying on a business, trade, profession or vocation (basically unincorporated businesses) to keep accounts and records showing an accurate view of the financial conduct of the business for any given tax year. Each business must submit, along with the income tax return for that business, a copy of the final accounts prepared on the accrual basis. The accounts and records that must be kept, include:

- Purchases;
- Gross receipts or gross sales;
- Transaction specific accounting of amounts received or expended;
- Allowances claimed;
- All accounts, including bank statements, held at any bank for the relevant period;
- All assets and liabilities including debtors and creditors;
- Payments made to any person not resident in Guyana;
- Shares held or owned by any person resident in Guyana;
- Shares held or owned by any person not resident in Guyana; and
- Results of annual stocktaking.

B. Finance

1. Taxes

All businesses, whether firms (unincorporated businesses including single ownerships and simple partnerships) or companies (incorporated businesses, including incorporated partnerships of individuals or companies), must have a taxpayer reference number. Firms may register with and receive a reference number from any Revenue Authority office by submitting a letter requesting such. Companies, in contrast, may only register with and receive their unique tax payer number from the Revenue Authority's head office in Georgetown. In addition to a letter requesting a number, companies must also submit certificate and articles of incorporation. In many cases a number is issued immediately, but it can take up to two weeks.

Whether a firm or a company, every business can benefit from sound tax advice. The Revenue Authority has in print several booklets to assist small businesses, including: Guide to Income Tax, Self-Employed Persons - A Tax Guide, Guide to Capital Gains Tax, Guide to the P.A.Y.E. System, and Guide to Property Tax. These booklets are available at every office of the Revenue Authority. These booklets contain information to help incorporated companies and unincorporated firms operate within the regulations as stated in various tax-related acts.

In the paragraphs that follow a few of the pertinent tax related acts are summarised. These are only abstracts meant to provide a flavour of the discussion. Each business, firm or company, is encouraged to review these acts with a competent authority.

a. Income Tax Act (81:01)

This act largely covers individuals, sole proprietorships, and partnerships, but some sections apply equally to companies. (Corporations/companies and external companies, i.e., foreign owned operations, are addressed in additional detail by the *Corporation Tax Act*.) In the case of single ownerships and partnerships, the income earned by the business is considered passed on entirely to the owner or, in the case of partnerships, to the partners according to each partner's percentage rights. As of October 2000, the income tax threshold was \$216,000, applied on a pro-rata basis according to the time worked during the year. The next \$134,000, pro-rated, is taxed at 20 percent and chargeable income above \$350,000, pro-rated, is taxed at 33 1/3 percent.

The act permits losses to be carried forward indefinitely until the loss is completely recouped. There are some stipulations, however, that may limit the amount that can be applied to taxable income in any one-tax year.

The tax law permits deductions from income, including, interest on capital employed; rent paid; an obsolescence allowance in cases where equipment is replaced. The regulations allow for deductions due to wear and tear of plant and equipment employed in the production of income. For certain businesses accelerated depreciation schedules are available. Deduction of "head office expenses" (e.g., management, technical, etc.) paid to a non-resident company or branch can not exceed one percent of annual turnover.

As an export incentive, the tax regulations include an allowance for non-traditional exports to non-CARICOM markets. Traditional Guyanese products, i.e., non-eligible items, include timber, lumber, rice, and shrimp. CARICOM market countries include countries of the Eastern Caribbean, Trinidad and Tobago, Belize, and Jamaica. The deduction is based on the value of eligible goods exported in relation to total sales.

<u>Export/Total Sales</u>	<u>% of Export Profit Deductible</u>
Under 10%	Nil
10% - 21%	25%
22% - 31%	35%
32% - 41%	45%
42% - 51%	55%
52% - 61%	65%
Exceeds 61%	75%

It is the responsibility of the business, regardless of nature or status (e.g., sole proprietorship, partnership, or company, resident or non-resident) to keep proper accounts and records of income and expenditures,

and to retain such records for any given tax year for a period of eight years. Each business is expected to make quarterly tax payments based on estimates of taxable income for the year. Taxable income estimates are typically determined by the preceding year's tax obligation. Such quarterly payments are due April, July, and October 1st and December 31st for sole ownerships and partnerships. For companies the quarterly payments dates are March, June, September, and December 15. The annual filing date for returns is April 30 for the preceding calendar year for firms and incorporated companies. All businesses have a calendar year tax year. Companies (including external companies, i.e., foreign businesses) may apply to the Inland Revenue for permission to use a fiscal year that is different than a calendar year.

If tax is paid in excess of the amount that is properly due upon final determination of annual tax liability, a refund will be issued. A claimant has seven years from the filing due date for the refund year in which to file for a refund. Guyana has double taxation treaties with Canada, the United Kingdom, and Northern Ireland, as well as members of CARICOM. The Commissioner of Inland Revenue may grant unilateral relief for taxes paid in countries with systems and legislation similar to Guyana.

b. Income Tax (in the Aid of Industry) Act (81:02)

The act provides tax relief to a variety of industries, e.g., sugar; rum distillation; mining; manufacturing of glass, paper, nails, housewares, cement, refrigerators; fertilisers and a long list of other items; logging; breweries; hotels; canning; foundries; and more. However, it excludes gold, diamonds, and petroleum, which are eligible for other special allowances. Among the act's provisions:

- An initial allowance of 10 percent of the cost of constructing a building and structure for the purpose of operating an eligible activity in the year in which the capital expenditure is incurred. Thereafter, a deduction or annual allowance of 5 percent per annum is permitted.
- An initial depreciation allowance of 40 percent on the cost of machinery. The cost of altering an existing building to accommodate the new machinery may be added to the cost of the machinery for purposes of calculating the allowance.
- For extraction industries, other than those stated above, an initial allowance of 10 percent on the construction of works likely to have little or no value when the source is no longer producing. Thereafter, an annual allowance is allowed. The allowance equals the greater of 5 percent of the balance remaining after the initial allowance, or, the remaining balance (rb) times the extracted output value (eov) for the period divided by the sum of such value plus the potential future value of output (fvo) to be extracted overtime. In formula, the allowance equals the greater of $(.05 \times rb)$ or $[rb \times (eov / (eov + fvo))]$.
- An allowance on the purchase of patent rights, equal to the lesser of the expenditure divided by 14 or the number of years for which the patent rights are valid if less than 14.
- Deferred income recognition on the net proceeds from the sale of patent rights by residents, whereby one-sixth of the net proceeds may be recognised each year for six years.
- Deduction for scientific research expenses in determining taxable income.

- An initial allowance for capital expenditures on scientific research of 60 percent of the expenditure and an annual allowance equal to 10 percent of the expenditure for each of the next four years.
- Subject to certain conditions, an annual allowance equal to one-tenth the cost of constructing housing for workers.

c. Corporation Tax Act (81:03)

This act regulates the tax on profits of companies (i.e., incorporated or unincorporated but not partnerships or sole proprietorships). The act distinguishes between resident and non-resident companies, where the latter is a company in which the control and management are exercised outside Guyana. The act also draws a distinction between commercial and non-commercial businesses, where the former derives at least 75 percent of its gross income from trading goods it does not manufacture.

The corporate tax rate is 45 percent for commercial companies and 35 percent for non-commercial companies. Commercial companies with a turnover in excess of \$1,200,000 are liable to Corporation Tax, but in no case should the tax paid for any year be less than 2 percent of the Company's turnover for that year. This tax is referred to as the minimum tax. For calculating the minimum tax the entire turnover is applicable for resident companies, whereas for non-resident companies turnover for minimum tax computations includes income directly or indirectly arising from its operations in Guyana. Where a company has paid a minimum tax, that portion of the tax that exceeds the corporate tax that would have been paid can be carried forward and set off against future company tax obligations to the extent that those future obligations are in excess of the minimum tax.

The act prescribes some requirements that are specific to a "close" company, i.e., one that is under the control of five or fewer participants or of participants who are directors. Non-resident companies are exempt from the definition of close companies. Among the regulations, limits are established as to the amount of individual director's fees that may be deducted as expenses. The act permits losses to be carried forward indefinitely until the loss is completely recouped. The application of loss relief may not reduce the actual tax paid to less than one-half of the amount payable before the relief was granted.

d. Capital Gains Tax Act (81:20)

A capital gains tax of 20 percent is levied on net chargeable capital gains in excess of \$1,000. This tax is applicable on assets held less than 25 years and exchanged at a gain above the original acquisition price less depreciation, provided such gains are not treated as profits for purposes of income tax computations under the *Income Tax Act*. (For assets acquired before January 1, 1991, the assets depreciable value is calculated as its market value on 1/1/91 plus any additions up to the date of disposal.)

The act permits the carry forward of net capital losses in excess of \$1,000. These capital losses may be carried forward for 24 successive years and applied against the realised, annual net chargeable capital gains in those years.

e. Property Tax Act (81:21)

Property is defined as movable and immovable. Net property, on which the tax is computed, means the amount by which the aggregate value of property is in excess of the aggregate value of all debts owed. The rate of tax is:

- For a person other than a company:
 - Filing threshold is \$1.5 million of net property
 - The first \$7.5 million of net property is exempt from Property Tax
 - For every dollar of the next \$5 million of net property .5% (.005)
 - For every dollar of the remainder of net property .75% (.0075)
- For a company:
 - There is no threshold for filing
 - The first \$1.5 million of net property is exempt from property tax
 - For every dollar of the next \$5 million of net property .5% (.005)
 - For every dollar of the remainder of net property .75% (.0075)

f. Consumption Tax Act (80:02)

Consumption tax, or 'C' tax as it is also referred to, is charged on goods destined for domestic consumption whether manufactured in or outside Guyana. The rate of tax depends on the item and for most items varies between 0 percent and 30 percent, though the tax on some goods exceeds 30 percent. The tax is calculated on the products cost plus applicable insurance and freight charges or, if locally manufactured, the manufacturer's sales price. Some items may be exempt from 'C' tax (see Incentives) as permitted by the Minister of Finance.

The Customs and Trade Administration is the agency responsible for collecting the consumption tax. It is the responsibility of the business to submit a report by the 15th of each month showing the tax calculations and payment for the preceding month. Customs will make periodic inspections of records to verify accuracy of payments.

g. Pay As You Earn (PAYE)

Any business with one or more employees must deduct taxes from employee wage or salary payments, whether those payments are made daily, weekly, fortnightly, or monthly. For self-employed persons, it is not necessary to deduct PAYE. A business must register all its employees under the pay as you earn system with the proper branch office of the Inland Revenue Department. A sample registration form is available in Volume II, Annex A, Exhibit A-19, Revenue Authority. Inland Revenue will provide each employee a unique file number.

The first \$216,000 of gross salary or wages earned on an annual basis is exempt from PAYE withholding. Depending on the frequency of payment, amounts less than or equal to the following are exempt from taxation: daily - \$591; weekly - \$4,153; fortnightly - \$8,307; and monthly - \$18,000. When gross income exceeds the threshold for the pay period, the PAYE tax is 20 percent on the next \$367 if paid daily; the next \$2,577 if paid weekly; the next \$5,153 if paid fortnightly; and the next \$11,166 if paid monthly. Amounts above these are taxed at 33 1/3 percent.

Employers are responsible for deducting the PAYE tax from employees' earnings as they earn. These taxes are to be remitted no later the 14th of the month following the month in which the deductions were made. The employer must provide each employee with a statement showing gross pay for the period and the amount of PAYE withheld. In the event that no taxes are deducted, the employer must notify the Commissioner by letter.

An employer who fails to remit withheld PAYE on time faces a penalty of 10 percent of the amount deducted but not remitted or \$10, whichever is greater, and interest of 45 percent, annualised, for the first year and 50 percent thereafter. If an employer over deducts from an employee, the employer is entitled to adjust the employee's taxes quarterly.

In January of each year, an employer is required to provide each employee with an annual PAYE statement for the preceding year. By February 28 of each year, employers must submit to IRD an employer's return for persons employed, showing the annual gross earnings of each employee, the amount withheld, and the amount remitted to IRD. Sample forms are found in Volume II, Annex A, Exhibit A-19, Revenue Authority.

2. Foreign Currency Controls

The *Dealers in Foreign Currency (Licensing) Act (19)* authorises the purchase of foreign currency by any person from any authorised dealer. There are approximately 25 authorised foreign currency dealers in Guyana, including all of the commercial banks. (Licenses are granted on an annual basis. Previously licensed dealers must be re-licensed during the first quarter of each year.) The majority of authorised dealers are in and around Georgetown. Non-bank currency dealers will offer few other foreign exchange services. Those who sell to unlicensed dealers face a penalty of \$5,000 and one year in prison. Unlicensed buyers of foreign currency may be fined \$10,000 or more and sentenced to three years in prison.

The *Foreign Exchange (Miscellaneous Provisions) Act (86:01)* requires Ministry of Finance approval before any person in Guyana, other than an authorised dealer, can lend or borrow foreign currency. Residents require permission from the Minister to operate foreign currency accounts in Guyana and must be able to prove to the Bank of Guyana (BOG or central bank) the need for the foreign currency and a stream of income in the requested currency.

Commercial banks are authorised to open foreign currency accounts for non-resident individuals and non-resident companies upon request. Proof of non-residential status is required in addition to the usual bank documentation. Accounts may be kept in US dollars, Canadian dollars, and British pounds.

Residents who export and receive their settlements in foreign currency may maintain foreign currency accounts, but prior approval of the BOG is required. The commercial bank holding the account would normally apply to the BOG on behalf of the client. Supporting documentation required to accompany the application, which is done by letter, includes proof of exports, cash flows (usually for 3 years) in the foreign currency, and approved licenses. These resident exporters accounts may be funded from export proceeds (in whole or part), foreign currency loan proceeds, and sometimes, though rarely, from credits approved by the Bank of Guyana. Foreign currency accounts may be used to meet any of the client's commitments.

The Guyana bank clearing system does not provide for banks clearing in a currency other than Guyana dollars. As such, some banks do not offer foreign currency current accounts. Most offer either direct deposit accounts or interest-bearing demand deposit accounts. However, as there are no restrictions to a resident or non-resident keeping an overseas, foreign bank account, some banks will offer selected clients the opportunity to draw US dollar checks on their overseas bank accounts, thus imitating the checking feature of current accounts.

Non-resident companies (those incorporated abroad or a locally incorporated business with majority shareholding offshore) must seek Bank of Guyana approval to borrow in Guyana dollars. The borrower should submit a letter to the Minister of Finance outlining the amount and purpose, and a copy of the letter to the Bank. The BOG will provide the Minister with an opinion on the loan request and a decision is made often within 72 hours.

In addition, companies must seek approval from the Bank of Guyana and the Minister of Finance to keep records and transact business or enter contractual obligations in a foreign currency. Also, currency in excess of US\$10,000 must be declared when entering or leaving Guyana.

C. Labour

Guyana's labour pool is largely literate, especially in and around major commercial centers. However, the availability of skilled labour can be problematic. A discussion of the rights and obligations of an employer with respect to labour is necessarily bound by a number of related acts, among them:

- *Accidental Deaths & Workman's Injuries Compensation Act (99:05)*
- *Employment of Young Persons & Children Act (99:01)*
- *Equal Rights Act (19)*
- *Factories (Hours & Holidays) Act (95:02)*
- *Labour Act (98:01)*
- *National Insurance & Social Security Act ((36:01)*
- *Occupational Safety & Health Act (32)*
- *Prevention of Discrimination Act (26)*
- *Public Holidays Act (19:07)*
- *Trade Union Recognition Act (33)*
- *Termination of Employment & Severance Pay Act (99:09)*

1. Work Permits

To work in Guyana, foreign nationals must obtain a work permit from the Ministry of Home Affairs. Permits take two to three weeks to process, though times do vary, are valid for up to three years, and are renewable. To obtain a permit it is necessary to submit a passport that is valid beyond the period for which the work permit is sought, plus the following information:

- Name
- Nationality
- Date of birth and age
- Passport number
- Marital status
- Profession
- Employer in country of origin
- Prospective employer in Guyana
- Duration of stay

2. Employment Guidelines

While there is no national minimum wage, the Minister of Labour may by law fix the minimum wage payable for any occupation in Guyana. Minimum wages are in fact established for a number of occupations, but in reality private sector rates based on supply and demand typically exceed the minimum. Exhibit A-12, Labour Authority, in Volume II, Annex A, provides a list of minimum wages established as of November 2000 for various labour categories.

An employer is free to establish the work week, which runs between 37½ and 44 hours a week. Three 8-hour shifts are often followed in manufacturing. Overtime is paid at time and a half. Factory workers receive double pay for work on Sundays and any of six holidays, noted with an asterisk in the box on next page. Workers are entitled to a minimum of 12 paid leave days a year. It is against the law to employ anyone less than 15 years of age; while persons less than 17 years of age may not be employed for night-time work.

3. Termination/Redundancy

The *Termination of Employment and Severance Pay Act* provides guidance on continuity of employment, termination of employment, and severance or redundancy allowance. In general, employment may be terminated by mutual consent, on grounds of redundancy, or by either party for cause. An employer may summarily dismiss an employee guilty of serious misconduct, without notice or payment of severance or redundancy. However, before an employer may dismiss an employee for misconduct the employee must have been given adequate warning.

For relationships terminated for reasons other than cause, an employer must provide the recognised trade union or, if one does not exist, the employee and the Chief Labour Officer a notice to terminate. For those employed less than a year, the prescribed notice period is at least two weeks. For those employed more than a year, the period is a minimum of one month. (Those terminated while under a probationary period require no period of notification.) In addition, at least one month prior to termination, the employer must consult with the same people regarding any possible measures that could be taken to avert or mitigate the adverse effects of termination. Employees not dismissed for cause are eligible for severance as follows:

- 1 week's wages for each completed year of service for the first five years;
- 2 weeks' wages for each completed year of service after the fifth year and up to the tenth year;
- 3 weeks' wages for each completed year of service in excess of 10 years up to a maximum of 52 weeks.

Role of Unions in Guyana Labour

About 35 percent of Guyana's official work force has voluntarily joined one of about 18 active unions. The *Trade Union Recognition Act* (33) requires the employer to recognise the trade union selected by the majority of employees to represent them. Among other things, the act protects employees from termination or other mistreatment as a result of serving in a union and requires both parties (employee and employer alike) to negotiate in good faith. In instances where an agreement can not be reached, arbitration may ensue where:

- Both parties consent and mutually select an arbitrator; or
- A Tribunal is formed under the *Labour Act*; or
- Arbitration is considered to be in the best interest of the country and made compulsory.

1. National Insurance Scheme

The *National Insurance and Social Security Act* establishes a system for the payment of various benefits, such as old age, invalid, survivor, sickness, maternity, and funeral. The act also provides for a system of insurance against "injury or death caused by accident arising out of and in the course of employment or resulting from disease due to the nature of employment," and the establishment of a National Insurance Board. The Board provides oversight for the National Insurance Scheme (NIS).

NIS eligible persons are defined in general as those more than 16 years of age and less than 60 who are "gainfully employed in insurable employment." Both the employer and the employee are required to make monthly contributions to the Scheme. Currently, employers contribute 7.2 percent and employees 4.8 percent on the first \$76,000 of eligible monthly salaries. Employees more than 60 and less than 16 years old contribute zero percent and the employer 1.53 percent. Self-employed persons pay 10.47 percent. The employer's contribution is on top of the employee's salary, i.e., it may not be deducted from the employee's remuneration. The employee's contribution is taken from the employee's wages. However, it is the responsibility of the employer to deduct the employee's NIS payment and submit both employer and employee contributions to NIS. Payments are due by the 15th of the following month. Late payments are charged bank overdraft rate plus one percent.

Every business must register with NIS, listing the employees and their NIS numbers and registering new employees. Employees should be registered by the name on their national identification card or passport, not by their 'call' or nicknames. Exhibit A-16, National Insurance Scheme, in Volume II, Annex A, contains sample employer and employee registration forms. After registering, an employer will receive a certificate of NIS registration bearing a unique number.

Employers must maintain records of wages showing the amount paid and deductions from an employee's wages and the employer's contribution. These records are to be kept on site for at least five years (even if employees are paid out of a head office) and made available to the NIS upon request. NIS inspectors will randomly visit businesses to evaluate compliance. The frequency of such visits depends on the business' compliance history. The NIS can provide the necessary forms for the requisite record keeping. The NIS also has several guides of possible interest: Manual for Employers & NIS Clerks and NIS: A Guide to Self-employed Persons.

In addition, employers are responsible for keeping an accident register. The register that OSH requires an employer to keep can serve this purpose. Employers are also responsible for completing and submitting on behalf of employees NIS benefit forms within 14 days of receiving a medical certificate. The NIS, for its part, endeavours to turn claims requests around in seven work days, though the average now is 14-21 days.

Guyana Holidays

- New Years Day — Jan. 1
- Republic Day/ Mashramani — Feb. 23
- Phagwah (Hindu) — follows lunar calendar*
- Good Friday (Christian) — April*
- Easter Monday (Christian) — April*
- Labour Day — May 1*
- Independence Day — May 26
- Eid-ul-Azha (Muslim) — follows lunar calendar*
- CARICOM Day — July 1
- Emancipation Day — August 1
- Youman-Nabi (Muslim) — follows lunar calendar
- Deepavali (Hindu) — follows lunar calendar
- Christmas Day (Christian) — December 25*
- Boxing Day — December 26

(*double pay holidays)

D. Customs

The Government of Guyana, under the Ministry of Finance, recently merged Customs and Inland Revenue under the Guyana Revenue Authority. The merger has brought together the two primary government sources of revenue. Now called the Customs and Trade Administration, the Customs office has embarked on a computerisation program that will eventually link Customs House (head office) with the numerous points of entry.

The procedure for clearing imports or inspecting exports is the same for businesses working through customs offices outside Georgetown, as it is for those working through the main office, Customs House, in Georgetown. Both importers and exporters must complete an Application for Registration, in duplicate, to begin the process. A copy of the form is in Volume II, Annex A, Exhibit A-4, Customs Import/Export. The applicant will receive a customs registration number in about a week. This number is used in completing all import and export documentation.

Though Guyana permits importers and exporters to act on their own behalf to clear goods, a good broker can save time and money. Brokers in Guyana have to pass a licensing exam and put up a \$40,000 bond. A list of brokers belonging to the Guyana Brokers Association is provided in Annex B, Exhibit B-5.

Currently, there is no formal appeals process for differences of opinion that arise at any step of the way in the import or export process. However, a Customs Tariff Tribunal is being established that will provide an appeals process to expeditiously decide on complaints. If a duty is overpaid, an Application for a Refund of Duty may be submitted (Volume II, Annex A, Exhibit A-4, Customs Import/Export). The refund process is slow.

Customs periodically fixes the exchange rate used to value imports or exports. In April 1999 the rate was \$155 to the US dollar and \$250 to the UK pound sterling. The current rate, as of 9 October 2000, is \$182.25 to the US dollar and \$267.80 to the UK pound sterling.

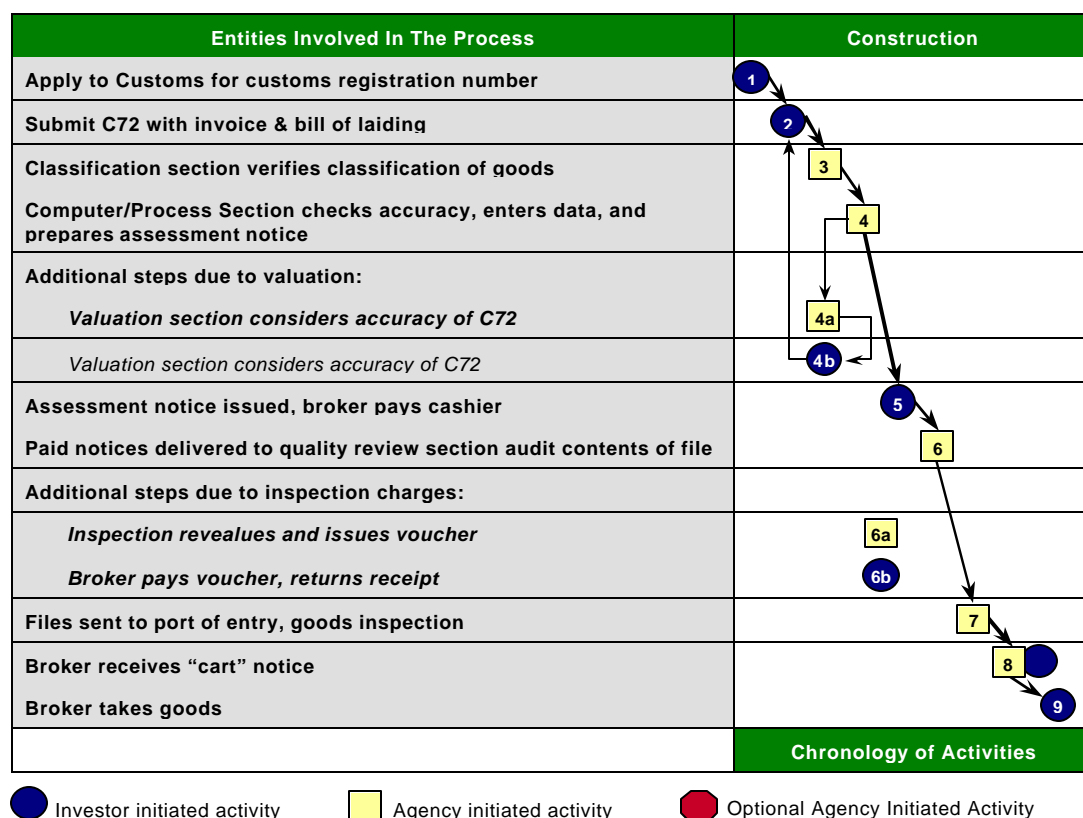
1. Imports

Some items, such as firearms or pharmaceuticals, require an import license, but most items do not. A list of items requiring an import license is available from Customs, the Ministry of Trade, or any good customs broker. Where a license is needed, the license request form (shown in Volume II, Annex A, Exhibit A-4, Customs Import/Export) must be completed in quadruplicate and submitted to the Ministry of Trade, along with a pro-forma invoice. A license can cover multiple consignments up to the quantity stipulated in the license agreement and is good for up to six months. A stamp duty of \$1 per \$1,000 in cost-insurance-freight (CIF) value is collected by Customs.

The Government has reduced tariffs on many imports to between 0 and 20 percent. In addition to whatever the applicable tariff is on the imported goods, a consumption tax is levied based on CIF value plus tariff. The consumption tax rate ranges from 0 to 30 percent, though some goods are higher.

Exhibit IV-1 illustrates the steps to follow to clear goods at Customs. The procedure is summarised below. Improvements to the computer system when complete should reduce the clearance time by half a day, or from about 2½ - 3½ days on paper to 2 - 3 days.

Exhibit IV-1. Import Customs Clearance Process



The first step in the clearance process, depicted in the exhibit, is to obtain a Customs registration number and, if required, an import license.

1. To clear imported goods, a broker or the importer, if acting on his own behalf, must complete form C72 in quadruplicate and submit it to Customs, along with the original supplier invoice, bill of lading, and insurance form, if insured.
2. This file of forms is routed to the Classification section where the accuracy of the classification of goods in the documents is verified.
3. The file is then delivered to the Computer/Processing section, where it is checked for completeness and accuracy and the data is entered. If everything is okay, an Assessment Notice indicating the amount of taxes to pay is issued to the broker and Custom's cashier, along with the C72 form.
- 4a. For commercial goods, except duty-free items, if a Customs officer believes the invoice value is not correct or the importer has a chequered history of under invoicing, the file may be routed to the valuation section. Here, the file is reviewed for accuracy and if the officer feels that the invoice is under valued, then the values may be increased for tax computation purposes.

- 4b. If revalued, the file is returned to the broker, who makes the necessary recalculations on form C72 and resubmits it. The file then goes to the Computer/Processing section again for entry and the issuance of an Assessment Notice. This retracing of steps may add another one to two days to the clearance process.
 4. The broker takes the notice to the cashier and pays the indicated amount, receiving a copy of the C72 form as a receipt. Twice a day, the original, paid for C72s are picked up from the cashier and delivered to the Quality Review section at Customs House, with the last pick-up at or near noontime.
 5. The Quality Review section then verifies once more the classifications used and the calculations.
 - 6a. If an error is found, Quality Review will revalue and issue a new voucher.
 - 6b. The broker must return to the cashier with the new voucher, pay the cashier, and return to Quality Review with a receipt and the C72. These side steps can add a half to one full day to the process.
 6. If everything is okay, the file is delivered to the wharf or other point of entry; another half day of time. A broker takes the approved forms to the point of entry where it is matched with the original delivered from the inspection unit. The goods are then located and a physical inspection occurs. This inspection is usually based on a sampling, unless some discrepancies are found. In which case, the inspection may become 100 percent.
- Deliveries are made two to three times a day (at or about 9 a.m., late morning and early afternoon) from the Quality Review section to the wharf or other point of entry. As with the pick up from the cashier in step 5, if a broker misses the last delivery time, then the paper work can not move forward until the next day.
7. After the inspection, the broker takes the bill of lading to the port agent, who provides a cart note for permission to take the goods out.
 8. The broker takes the goods.

2. Exports

Most goods do not incur any export duties, but an export license is required. The Ministry of Trade, Tourism and Industry (MTTI) issues the license, which may require the approval of other agencies depending on the commodity being exported. Trade can assist identify other signatures needed, if any. The exporter must complete a Commercial invoice and, if exporting to CARICOM, a CARICOM Invoice and CARICOM Certificate (see Volume II, Annex A, Exhibit A-4, Customs Import/Export). MTTI and Customs must sign the certificate for each exported consignment. If exporting to the U.S., Schedule B (Volume II, Annex A, Exhibit A-4) must be completed. The CARICOM Certificate can be used in lieu of Schedule B.

An exporter, or a broker acting on behalf of the exporter, follows much the same process as for importing, except there are no valuation section or inspection unit steps. A broker submits the same C72 form, plus a Customs Invoice (Volume II, Annex A, Exhibit A-4). An exporter may include a company invoice but must still submit the Customs Invoice.

Most exporters will seek permission to load on-site, i.e., at their premise, which means that a Customs officer will come to the exporter's place of work to inspect goods during loading of the container. At least a two-hours notice is required to schedule an on site loading inspection. The cost is \$60. After the inspection, the container is sealed and the C72 form returned to the broker/exporter to deliver along with the shipment to the shipping company.

3. MTTI - Import/Export Licenses

MTTI has a licensing division that issues import and export licenses. MTTI attempts to turn applications around in 48 hours in cases where only its signature is required and there are no questions. However, some exports and imports require other approvals as well, e.g., diamonds - Geology & Mines; chickens - FDD and Agriculture; two-way radios - National Frequency Board; among other examples. In cases where other ministries or agencies must approve, MTTI is the last to sign.

The Ministry of Trade, Tourism and Industry is considering opening a licensing window in 2001 at which the requisite import or export license application could be dropped off and someone from MTTI would seek the necessary approvals both outside and within the Ministry depending on the commodity. Currently, the importer or exporter must seek these other authorisations.

(Note: The government has created a new ministry – the Ministry of Foreign Trade. Some of MTTI's functions may be passed to this new ministry, though not clear at this time.)

E. Annual Renewals

1. Business Registration

Every year the business registration certificate must be renewed. If this is done during the open re-registration period, January 2 to 15, the cost is \$5. If this renewal is completed after January 15, the cost is \$10,000 and treated as a new business registration. In the past the Registrar would issue a new certificate. Starting with 2000, however, the office stamps the original certificate, so it is important to bring it when reregistering.

An incorporated company must file an annual return, which includes, among other documents delineated in the *Companies Act*, an audited statement. If a company fails to submit the documents annually, the Registrar's office will notify the company that it is in default and that it will be removed from the registry if not remedied in 28 days. If no response is forthcoming from the company, then the Registrar will place an announcement in the official Gazette that the company has been removed from the Registrar's records. (Practically speaking, the Business Registry is behind on notification, so a company that is inadvertently delinquent can catch up by filing after the fact without penalty.)

2. Fire Services Prevention Section

The fire safety certificate issued by FSPS must be renewed annually. Renewals are usually handled during the first quarter of each year. Certain "high hazard" businesses, such as cinemas, hotels, discos, petrol stations, are subject to surprise inspections. FSPS can close a high hazard establishment immediately, but with other types of businesses FSPS must take a non-complying business to the Fire Advisory Board. The Board will then rule to close the business or provide the owner more time to comply, if the Board is in agreement with FSPS' recommendations.

3. Food & Drug Department

FDD's license to operate must be renewed annually at a cost of \$1,500, though an increase in the fee is likely. A business does not need to schedule an annual inspection as the Department performs regular planned visits during the first quarter of the year. In addition, the FDD will randomly sample covered products (whether imported or domestically produced) from retail shelves and investigate consumer complaints.

The FDD will monitor every consignment of imported finished goods and the imported inputs used by domestic processors of covered items via the customs documentation. The procedure begins with a review of the import forms submitted to Customs. If the goods imported are covered by FDD, the agent will stamp the form "for FDD approval." The importer or broker must then take the forms to FDD. The FDD should examine the foods at the port of entry, but this is generally not done because of manpower constraints. In most cases, unless there is a history of repeat offence, FDD will stamp the forms "release to warehouse." (If the broker or importer drops the forms off at FDD in the morning, they can usually pick them up in the afternoon.) This FDD authorisation allows the importer to move the goods out of Customs before official FDD inspection, likely saving the importer storage charges. Sometime over the next day or two, FDD will visit the importer's place to inspect the goods.

The FDD has no authority to shut down an operation for misconduct, though the Department can seal off non-compliant areas of an operation and/or remove non-compliant equipment, which can be just as effective. However, except for cases of high risk (i.e., where the safety of the food may be compromised) and the most egregious and repeat offenders, FDD prefers to provide a list of needed changes and a time frame in which to make them. Later revisiting the operation to see that changes were indeed made. In addition, as the fines under the existing, somewhat dated regulations are too low to deter misconduct, the FDD will, if necessary, place an announcement in the papers identifying offenders and the offence as a public service.

4. Public Health Department

The Public Health Department will inspect annually and either make a recommendation to the relevant authority or issue a certificate of fitness. The Department will issue a Food Handlers Certificate on behalf of FDD. The Public Health officer will monitor sanitary conditions, state of surrounding area, and condition of equipment and utensils.

5. Occupational Safety & Health

OSH requires an annual renewal. The employer initiates the inspection with a letter to OSH requesting a visit by OSH. OSH will visit the premise and, if satisfied, will issue a new certificate, often within a week.

6. City Engineers Department in Georgetown

Once a year the Building Permit must be renewed at a price of \$10,000. In order to renew the permit the investor must first obtain a soundness certificate from the Engineers Department. A letter from the investor initiates this process. Also, if changes in the structure occur, a building permit must be obtained. This also applies to cases where the business changes focus (for example from a barbershop to a liquor shop).

7. Guyana National Bureau of Standards

The Guyana National Bureau of Standards is responsible for establishing, in conjunction with responsible agencies, minimum quality standards for a variety of undertakings. Enforcement of these standards falls to FDD, Ministry of Agriculture (for plant and animal matters), and Veterinary Public Health Unit (for seafood and meats).

The GNBS has created standards for 16 categories of imports. All imports within these categories must meet these minimum standards. Exhibit A-8, Guyana Bureau of Standards, in Volume II, Annex A, reviews the Import Quality Monitoring Program managed by GNBS. Under this program, importers bringing in commercial quantities must register with GNBS. The annual fee is \$15,000. An application form, also part of Exhibit A-8 of Annex A, must be submitted to GNBS along with the importer's business registration. A GNBS inspector is stationed at Customs House and at the John Fernandes Ltd. and Guyana National Industrial Company (GNIC) wharves. The inspector must approve import documents for each shipment involving any of the 16 categories before the importer can take receipt of the items. In addition, if one of the three indicated units (FDD, Ministry of Agriculture, Veterinary Public Health Unit) does not already inspect the importer's premises annually, then GNBS will do so.

SECTION V

Investment Incentives

With minor exceptions, Guyana treats domestic and foreign investors alike with respect to investment incentives. Guyana offers investors a number of incentives that are applied across the board and available based on an investor meeting specific criteria or making certain investments. Some of the incentives available to investors include industrial estates, accelerated depreciation, flat business tax rate, export allowance, loss carryforward, construction allowance, research and development allowance, and moderate capital gains tax among others.

In addition to some specific advantages conferred on certain industries, e.g., tourism, fisheries, mining, exporters can access the preferential markets defined by CARICOM, Lome IV, CARIBCAN, and the Caribbean Basin Initiative. Guyana also offers duty free imports and tax holidays to investors. The process for obtaining either of these two incentives is the same, and begins with a letter to the Secretary to the Treasury.

A key factor in the determination of duty free status and consumption tax waiver is the domestic value added. The applicant should include a pro-forma invoice for the items to be imported, indication of the end market, expected sales price, and calculation of the value added in Guyana. A blanket approval will not be given. Instead, each import consignment must be reviewed on its own merits. When granted, the duty and consumption tax is often waived completely or lowered based on the industry and item. The approval process can take some time; however, the office of the Secretary to the Treasury has a target of a seven-day turnaround. The Secretary to the Treasury says that the office is now achieving this target.

Value added and the nature of the business are two key considerations in extending a tax holiday. Inland Revenue and Cabinet may be consulted as well. The President must approve all tax holidays. As a result, the approval process is longer. Tax holidays are less likely than duty free status or consumption tax waiver. Tax holidays can range up to 10 years, or longer depending on the nature of the business.

Property may be expropriated for public purposes following international law principles of due process, adequate compensation, and transparency; but, Guyana has not expropriated property for some time. There is no commercial court. However, even though it may be outdated, Guyana's Arbitration Act (1931) allows for the enforcement of international arbitration decisions. Guyana is a signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of other States and a member of the International Centre for the Settlement of Investment Disputes.

Annex B**Directory of Investment Resources****Table of Contents**

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Exhibit B-1. Directory of Trade Mark Agents

Directory of Trade Mark Agents	
Bishwaishwar Ramsaroop	93 Regent Street Lacytown, Georgetown, Guyana
*Cameron & Shepherd	2 Avenue of the Republic Georgetown, Guyana
Ashton Chase	217 South Street Georgetown, Guyana
Clarke & Martin	Brickdam & Maget Place Stabroek, Georgetown, Guyana
Hughes, Fields & Stoby	62 Hadfield & Cross Streets Georgetown, Guyana
Kashir A. Kahn	5 Avenue of the Republic & Robb Street Georgetown, Guyana
Kulraj Kamta	Care of Fedna Stoll Croal Street Georgetown, Guyana
*Luckhoo & Luckhoo	1 Croal Street Stabroek, Georgetown, Guyana
Reakha Persaud	5 Croal Street Stabroek, Georgetown, Guyana
*R. N. Poonai	153 Charlotte Street Georgetown, Guyana
Eva Rawana-Scott	224 South Road Lacytown, Georgetown, Guyana
Rex, McKay & Moore	1 Croal Street Georgetown, Guyana
William H. Sampson	2 Croal Street Stabroek, Georgetown, Guyana
Dyal Singh	153 Charlotte Street Georgetown, Guyana
Gaumatie Singh	5 Avenue of the Republic Georgetown, Guyana
Martin J. Stephenson	99 Regent Street, Lacytown, Georgetown, Guyana
Storm Westmaas	221 South Street Lacytown, Georgetown, Guyana
*Main Agents	

Exhibit B-2. Register Of Environmental Impact Assessments (EIAs) Consultants

Name of Company	Address
Barran Engineering and Aviation Group Ltd. (BEAGL)	45 Blygezight Gardens Greater Georgetown, Guyana Tel: 592-2-60622
Brice, Gwen	Environment Planning and Education 74 Canje Street Section 'K' Campbellville Georgetown, Guyana Tel: 592-2-61168
Broomes, Veronica Faith Anne	P.O. Box 10565 Georgetown, Guyana Tel: 592-20-7127 Fax: 592-20-4902 Email: vfab@solutions2000.net
Business Employment and Environmental Services Ltd.	101 'B' Laluni Street Queenstown, Georgetown, Guyana Tel: 592-2-76729
Bynoe, Mark	23 William Street Campbellville Georgetown, Guyana Tel: 592-2-71368 Bus: 592-22-4180
Caribbean Engineering and Management Consultants Ltd. (CEMCO)	63 Main and Middle Streets North Cummingsburg, Georgetown, Guyana Tel: 592-2-70542 Fax: 592-2-63930
Chaterpaul, Lakeram, Ph.D.	78 Area F Ogle, East Coast Demerara, Guyana Tel: 592-22-5732
DaSilva, Phillip	2881 Well Road North Ruimveldt Greater Georgetown, Guyana
Environmental Engineering Service	Cyrus Trace El Socorro Extension San Juan, Trinidad Tel: 809-674-0686/2679 Guyana Head Office 215 Camp Street Georgetown, Guyana Tel: 592-2-53867 Fax: 592-2-56864
Environmental Science and Technology	14 Carvalho Drive Kingston, Jamaica Tel: 809-929-8823/4 Fax: 809-929-8823
Environmental Studies Unit University of Guyana	University of Guyana Turkeyen, Greater Georgetown, Guyana

Name of Company	Address
	P.O. Box 101110 Tel/Fax: 592-2-76729
ESG International	361 Southgate Drive Guelph, Ontario Canada, N1G 3M5 Tel: 1-519-836-6050 Fax: 1-519-836-2493 Email: bdowsley@esg.net
Figg Engineers Inc.	424 North Calhoun Street Tallahassee, Florida 32301-1298, USA Tel: 904-224-7400 Fax: 904-224-8745
Ground Structures Engineering Consultants Ltd.	212 D'Andrade Street Newtown, Georgetown, Guyana Tel: 592-2-52974/5 Fax: 592-2-61328
Homenauth, Oudith, Ph.D.	10 Second Street Bel Air, Georgetown, Guyana Tel: 592-2-51339
LTS International Ltd.	Pentlands Science Park Bush Loan, Penicuik Near Edinburgh EH 26 0PH, Scotland Tel: 44-131-440-5500 Fax: 44-131-440-5501 Email: mail@Itsi.co.uk
Poonai, John	17-3 Lad Lane New Amsterdam, Guyana Tel: 03-2440
Ramdass, Indarjit, Ph.D.	38 Le Ressonvenir East Coast Demerara, Guyana Tel: 592-20-3258
Simmons and Associates, Inc.	No 2, Ingleside House 7 th Avenue, Belleville St. Michael, Barbados Tel: 246-228-7013 Fax: 246-228-7018 Email: asimmons@sunbeach.net
Sukhoo, Apti	c/o GAHEF Lilliendaal Greater Georgetown, Guyana
Sustainable Development Services Ltd.	214 Bamboo Drive Meadow Brook Gardens Georgetown, Guyana Tel/Fax: 592-2-67531
Technical Publishing and Advisory Service	P.O. Box 10565 Georgetown, Guyana Tel: 592-20-4902/7127 Fax: 592-20-4902
Trans Atlantic Service	K24-994 Critchlow Circle Tucville, Greater Georgetown, Guyana

Name of Company	Address
Williams, Patrick E.	44 D'Andrade Street Newtown, Kitty, Georgetown, Guyana Tel: 02-60912 or 022-4180 (Office)
Wright, Sam A.	P.O. Box 1586 Mashpee, MA 02649, USA Guyana Office: 94 Manni Street Linden, Guyana Tel: 592-4-6350

Exhibit B-3. Register of Private Land Surveyors

Name of Surveyor	Address
Ali, S.	Lot 91 Hunter St. Albouystown G/T Tel: 57454
Amsterdam, M.	D51 Nari Compound, Mon Repos ECD
Arokium, L.G.	1131 Crane Place SRPrk, Georgetown
Azam, M.S.	E ½ 355 East Street, North Cummingsburg Tel: 59690
Benny, T.P.L	36 Enterprise Gardens, ECD
Bhagwandin, A.	
Bowen, C.J.H.	Henrietta Village, Essequibo Coast
Braithwaite, G. I.	Onverwagt Greater N/A
Brigemangal, K.	Ogle Railway Line ECD
Cappel, C.C.	25 Queen St. Kitty, Georgetown
Chapman, K. A.	W ½ 232 South Road Bourda, Georgetown Tel: 62235
Choo-Shee-Nam, R. I.	169 Century Palm Gardens, Georgetown Tel: 66749
Cox, L.W.	172 Lamaha Gardens, Georgetown
Edwards, W. H.	35 Section 'C' Enterprise, ECD
Fraser, B.C.	P.O. Box 12124, Bourda P.O., Georgetown
Harrinandan, J. D.	61 Hadfield Street, Lodge, Georgetown
Hopkinson, Edward	Hopkinson Street, Republic Park Tel: 71613
Howard, H. A.	4 Mansell St. Bel Air Park Tel: 61015
Jacobus, A.J.	53 Enterprise Gardens ECD
James, H.	717 Avacado Place Ervdt Hsing Sch Tel: 52760
Jessimy, D. F. C.	New Road Vhoop, WBD
Matthews, G. B.	25 Hadfield Street Lodge G/T
McGreggor, L. F.	27 Dowding St. Kitty G/T Tel: 66911
McLennon, V. H.	West Rumveldt G/T
Moonsammy, R. E.	Versailles WBD
Narine, A.	New Road /38 Vhoop, WBD Tel: 064-2323
Norton, F. G.	
Orilall, A. K.	E ½ Lot 44 D'Andrade St. Newtown Kitty G/T Tel: 76847

Name of Surveyor	Address
Patterson, D. A.	Lot 1 Thorne's Drive, DuPk G/T Tel: 72874
Persaud, Hansraj	74 Patentia Housing Scheme WBD
Persaud, Rohan	Lamaha Street Newtown Kitty G/T Tel: 70905
Phang, M. A.	291 Church St. Queenstown G/T
Rafick, M. E.	
Ramcharan, D.	Lot 12 Bushy Park EB Essequibo
Ramkaran, Dwarks	Helena No. 1 Mahaica ECD Tel: 282-2532
Ramnauth, J.	Tuschen public Road Tuschen
Ramsarran, N.	Lot 13, Blenheim Leguan
Rutherford, J. E.	Fairs Rust Linden Tel: 04-3404
Seerathan, B.	
Seodat, D.	4 South Railway Embankment, Elenbrook ECD
Singh, O.	15Y Charlotte & King Street G/T
Sookram, A.	41 Cray Park Greater N/A
Sukhdeo, K. P.	111 Duke St. Kingston G/T Tel: 71031
Swain, W. A.	24D George St. Freeburg Tel: 58476
Trotman, Joel	173 Roxanne Burnham Gdns G/T Tel: 54115
Warren, R. W.	1E Courida Park ECD Tel: 022-2418
Westford, D.	
Woolford, P.	45 Pere St. Kitty G/T Tel: 64602
Yearwood, N. N.	58 Chandranager St. Pngar G/T Tel: 56072

Exhibit B-4. Lands & Surveys Regional Offices

Lands & Surveys Regional Offices		
Region No.	Location	Telephone No.
1	Mabaruma	077-5068
2	Anna Regina Essequibo	071-4393
		071-4392
3	Vergenoegen	060-2248
3	Crane	037-2124
		037-2269
6	Whim	037-2124
		037-2633
6	Black Bush Polder	039-2275
6	Corriverton	039-2308
6	New Amsterdam	03-4404
7	Bartica	05-2269
9	Lethem	072-2016
10	Wismar/Linden	04-2141

Exhibit B-5. Members of the Guyana Custom House Brokers Association

Name and Home Contact Information	Office Contact Information
Ali, Ashraf 6 Pakistan, La Laousie West Coast Demerara	c/o Associated Industries 5 Rumveldt, Greater Georgetown Tel: 02-68891-5 Fax: 02-57676
Alli, Rafeek 5 Koghland Dam Klien Pouderoyen, West Bank Demerara Tel: 064-2371	139 Waterloo Street South Cummingsburg, Georgetown Tel: 02-70545
Amrit, Omawattie 269 Thomas Street North Cummingsburg Georgetown Tel: 02-57035	c/o Oma Amrit Licensed Customs House Broker 269 Thomas Street North Cummingsburg, Georgetown Tel: 02-57935
Austin, Carlton Richard 102 David Rose & Sugar Cane Streets South Ruimveldt Greater Georgetown Tel/Fax: 02-75073	c/o RCA Import & Export 86 Robb Street Lacytown, Georgetown Tel: 02-73335, 68533 Fax: 02-75073
Barker, Colin 43 First Street Alexander Village Greater Georgetown East Bank Demerara Tel: 02-53476	c/o GA2000 Inc. Ramp Road, Ruimveldt Greater Georgetown East Bank Demerara Tel: 02-67186
Bart, Morris 3894 South Ruimveldt Gardens Greater Georgetown	c/o M & B Shipping & Custom Broker Service 194 Charlotte Street Lacytown, Georgetown Tel: 02-59415
Bayney, Harry N. 25 Owen Street, Kitty Greater Georgetown Tel: 02-76178 Fax: 02-70603	c/o A&M Trading Enterprise 13 Cummings & First Streets Alberttown, Georgetown Tel: 02-70603 (24 hours) Tel: 02-71861
Blake, Leslie 240 Vryheids Lust East Coast Demerara Tel: 020-7741	c/o Reliance Brokerage Service 85 Quamina Street Georgetown Tel: 02-61945/ 02-60195
Bruce, Lloyd Austin 203 Charlotte & Light Streets Bourda Georgetown	c/o Archies Electrical Co. 77 Robb Street Lacytown Georgetown Tel: 02-57152/ 60683 Fax: 02-69580
Byron, I. Romao 114 Lindley Avenue Nandy Park, Peter's Hall East Bank Demerara Tel: 02-60284	C/o General Brokerage Service 114 Lindley Avenue Nandy Park, Peter's Hall East Bank Demerara Tel: 02-60284

Name and Home Contact Information	Office Contact Information
Cameron, Alex 47 Prine William Street Plaisance, East Coast Demerara	C/o Muneshwers' Limited Water Street, Georgetown Tel: 02-77788
Chung, Arlene 1667 South Ruimveldt Park Greater Georgetown Tel: 02-53576	C/o MACORP 26 Providence East Bank Demerara Tel: 02-065-4891/ 4887
Drakes, Leon R.G. 20 Goed Intent Village West Bank Demerara	C/o Techmarine (G) Ltd John Fernandes Ltd. 2-4 Water Street, Georgetown Tel: 02-54999- 54992
Guptar, Azad 2874 North Ruimveldt Greater Georgetown	C/o Tony Customs Brokers Palm Court Buidling 35 Main Street Georgetown Tel: 02-67068
Hack, Azeez 15-3 rd Street, Liliendall East Coast Demerara Tel: 022-4270	C/o Azeez Hack Customs Brokers 158 Regent Road Bourda, Georgetown Tel: 02-70557 Fax: 02-70557
Hassan, L. 15 Delhi Street Prashad Nagar Tel: 02-63928	C/o L.P.K. Holding Ltd and Freight Forwarding Tel: 02-61095-7
Hassan, Nizam 192 Thomas Street Kitty Village Greater Georgetown Tel: 02-711511	C/o New G.M.C. 87 Robb & Alexander Streets Lacytown, Georgetown Tel: 02-68255 Fax: 0274114
Humphrey, Samuel 2893 Well Road North Ruimveldt H/Scheme, Greater Georgetown Tel: 02-76756	c/o Reliable Brokerage Service 85 Quamina Street South Cummingsburg, Georgetown Tel: 02-61945 / 60195
John, Loretta Desir 250 Blue Sackie Drive South Ruimveldt Park Greater Georgetown	c/o D & J Shipping Service & DHL Worldwide Express 50 E 5 th Street Alberttown, Georgetown Tel: 02-57772 / 58160 / 61967 / 62775 Fax: 02-74742
Jones, Keith 289 Beverley Close South Ruimveldt Gardens Greater Georgetown Tel: 02-70122 / 70002	c/o Banks D.I.H. Thirst Park Greater Georgetown Tel: 02-69421-8
Joseph, Ingrid 1149 Crane Place South Ruimveldt Park Greater Georgetown	c/o DHL Worldwide Express 50 E 5 th Street Alberttown, Georgetown Tel: 02-57772 / 58160 / 61967 / 62775 Fax: 02-58160

Name and Home Contact Information	Office Contact Information
Khan, Sandra 195 Barr Street Kitty Village Greater Georgetown Tel: 02-66434	c/o G & S Enterprises 195 Barr Street Kitty Village Greater Georgetown Tel: 02-66434 Fax: 02-76433
Lopes, Michael G. 241 W ½ Lamaha Street Newtown, Greater Georgetown Tel: 02-76156	c/o Continental Agencies Ltd. 9 Industrial site, Ruimveldt East Bank Demerara Tel: 02-64041-3 Fax: 02-53568
Lalbachan, Gopiechan 32 Garnett Street Campelville Greater Georgetown Tel: 02-75494	c/o Associated Industries 5 Ruimveldt Greater Georgetown Tel: 02-68491-5 / 67291-5 Fax: 02-57676
Makardajh, Ramnarine 311 Hope East Enmore East Coast Demerara Tel: 070-6366	c/o Country Pride Enterprises Ltd. 64 Robb & King Streets Georgetown Tel: 02-57820-4
Moti, Kesno G. 178 Para Field Lenora West Coast Demerara Tel: 068-2801	c/o 5 Avenue of the Republic (Humphrey & Company Ltd, Building) Georgetown Tel: 02-52586
Nichols, Gregory 3 Norton Street Worthmanville Georgetown	c/o United Shippings 35 Main Street Palm Court Building Georgetown Tel: 02-53646 Fax: 02-53646
Nurse, Deion A. 74 Queen Street Kitty Village Georgetown Tel: 02-68760	c/o Services International 74 Queen Street Kitty Village Georgetown Tel: 02-68760
Persaud, Thakur 196 Shell Road Kitty Village Georgetown Tel: 02-71443	c/o 196 Shell Road Kitty Village Georgetown Tel: 02-71443 Fax: 02-66836
Perreira, John M. 130 'D' Carmichael Street South Cummingsburg Tel: 02-73370 Fax: 02-73370	c/o 130 'D' Carmichael Street South Cummingsburg Tel: 02-73370 Fax: 02-73370

Name and Home Contact Information	Office Contact Information
Phang, Mark 13 3 rd Avenue Subryanville Greater Georgetown Tel: 02-73118	c/o Mings Products & Services Ltd 6 Urquart Street Georgetown Tel: 02-53553 / 64490 Email: markphang@hotmail.com
Rajcoomar, Rajendra 73 'B' Non-Pariel East Coast Demerara	c/o Raj Licensed Custom Broker & Shipping Agency 19 Station Street Kitty Village Georgetown Tel: 02-50134
Ramcharan, Ronald 276 Independence Blvd. La Penitance Greater Georgetown Tel: 02-54538	c/o E.C.I. 108 Regent Street Bourda Georgetown Tel: 02-53135 / 53267
Thorne, Andrew 471 North East La Penitence Greater Georgetown Tel: 02-51305	c/o United Shipping Palm Court Building 35 Main Street, Georgetown Tel: 02-53646
Sahibdeen, Clarence 2 Middletown Street Campelville Greater Georgetown Tel: 02-59229	c/o 2 Middletown Street Campelville Greater Georgetown Tel: 02-59229

Exhibit B-6. Directory of Government Resources

Agency	Contact Information
Central Board of Health (Reviews application during the site development process)	Ministry of Health & Labour Brickdam, Straboek Georgetown Tel: 226-7400, 226-5861, 226-5865 (ext. 31)
Central Housing & Planning Authority (Ultimately responsible for control of building development throughout Guyana)	Homestretch Ave. Durban Park, Georgetown Tel: 227-7233
Customs and Trade Administration (Involved in the import and export of goods)	Customs House 34 Main & Hope Streets Georgetown Tel: 225-6931, 225-6937 Fax: 226-2128 Regional Offices: New Amsterdam: 333-2513 Timehri: 261-2247
Deeds & Lands Registry (Involved in the registration of business partnerships/proprietorships, the purchase of private land, and the leasing of private land)	Charlotte Street, Stabroek Georgetown Tel: 225-1129, 225-3083, 226-8641 Regional Offices: New Amsterdam: 333-3420 Anna Regina (in 2001)
Environmental Protection Agency (EPA) (Reviews application during the site development process)	IAST Bldg, University of Guyana Turkeyen Campus Georgetown Tel: 222-2277, 222-5784, 222-2231, 222-5785 Fax: 222-2442 E-mail: epa@networksgy.com
Fire Services Prevention Section (Involved during the site development process)	Fire Services Headquarters 11A Water St. Georgetown Tel: 226-2411, 226-2413 Regional Offices: New Amsterdam Timore West Demarara

Agency	Contact Information
Food & Drug Department (Monitors quality of related products)	Mudlot, Kingston Georgetown Tel: 263-4711, 226-8337
Georgetown City Engineers Department (Involved in site development process)	Homestrech Avenue Durban Park Georgetown Tel: 226-1332
Guyana National Bureau of Standards (GNBS) (Manages the Import Quality Monitoring Program)	Flat 15 Exhibition Complex Sophia Georgetown Tel: 455-9041, 455-6226, 455-9013 Fax: 455-7455 E-mail: gnbs@sdnp.org.gy Regional Offices: New Amsterdam: 333-4017 Springlands: 339-2308
Industrial Estate Land (see GO-Invest) (Involved in the leasing of industrial estate lands)	190 Camp Street (corner of Camp & Church streets) Georgetown Tel: 225-0654, 225-0658, 227-0653 Fax: 225-0655
Internal Revenue (Involved in tax collection)	GPO Building Robb Street Georgetown Tel: 225-5587 Regional Offices: New Amsterdam; Linden; Anna Regina; Springlands
Land & Surveys Division (Involved in the leasing and acquisition of state- or government-owned land)	22 Hadford Street, Lodge Georgetown Tel: 226-0528, 226-0529, 226-4052
Ministry of Home Affairs (Involved in immigration and the issue of visas)	6 Brickdam, Stabroek Georgetown Tel: 226-1717, 226-2444, 226-2445
Ministry of Labour (Involved in the issue of work permits, the National Insurance Scheme, and employer-employee relations)	Homestretch Avenue, Durban Park Georgetown Tel: 225-7302, 226-6997, 225, 7510 Fax: 225-3477 Regional Office: New Amsterdam: 333-3327

Agency	Contact Information
Ministry of Trade, Tourism, and Industry (Involved in the export/import of goods, in conjunction with the Customs Trade and Administration)	Ministry of Trade, Tourism & Industry 229 South Road, Laceytown Georgetown Tel: 227-2718 Fax: 225-4310
National Insurance Scheme (A social insurance program under the Ministry of Labour)	Brickdam, Stabroek Georgetown Tel: 225-2793, 225-2793, 226-8376 Fax: 225-9377 Regional Offices: New Amsterdam: 333-3122 Linden: 444-6305 Bartica: 455-2326 Mahaicony: 221-2326 Corriverton: 339-2224 Pourderoyen: 264-2531 Anna Regina: 771-4107 Melanie Dameshana: 07-0122, 07-1227 Port Mourant: 337-2292, 337-2630 Mabaruma Leonara: 268-2285, 268-2275, 268-2278
Occupational Safety and Health Commission (Involved in the site development process and requires annual renewals)	Homestretch Avenue, Durban Park Georgetown Tel: 226-8739 Fax: 225-3477 E-mail: Mol-osh@sdnp.org.gy Regional Office: New Amsterdam: 333-2689
Secretary to the Treasurer (Involved in tax holidays and the import/export of goods)	Ministry of Finance Main Street, Kingston Georgetown Tel: 226-3371

Annex C

Abstracts of Investment Related Acts

*A summary of some of the regulations affecting the investment process**

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29	Companies Act	Formation and management of a registered company	C9
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59:01	Lands Department Act	Leasing of state- or government-owned land	C14
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Deeds Registry and Lands Registry Acts* (chapter 5:01 and chapter 5:02)

Topic: Purchasing and leasing private land

The *Deeds Registry Act*, chapter 5:01 (LRO 3/98) covers the execution and registration of transports, mortgages, and leases. The *Lands Registry Act*, chapter 5:02 (LRO 3/98), relates to the transfer and registration of titled property. Titled and transported property is property in which the transport (akin to title) or title is owned by a person or entity other than the State; however, this could include the Government land. (State and Government land stems from the colonial era when all land was crown land. When parcelled out, the crown created colony land. After independence, crown land became State-owned and colony land became Government-owned. It is possible for Government land to have transport or title).

Deeds Registry Act (5:01)

To transfer or mortgage transported property, it is necessary to pass and execute a transport or mortgage before the Court or the Registrar, have it registered by the Registrar, and filed as a record in the registry. The same applies to the transfer of "long leases" (those equal to or exceeding 21 years), or those leases renewable indefinitely at the will of the lessee.

It is important to properly register the passing of a transport or title in order to have recourse through the Guyana judicial system. This could be critical, for example, in executing a deed of cancellation of a mortgage where a responsible party can not be found, as the Registrar may then cancel the mortgage and clear the transport or title.

In order to execute a transport of immovable property or transfer a title or long lease, the seller or lessor must, among other actions, present a Certificate of Compliance from the Revenue Authority (formerly Inland Revenue), stating that the seller/lessor is current on all taxes due. It is also necessary, if the land is situated within the boundaries of a recognized local authority (i.e., Town Council), to present a similar certificate from the local authority stating that all payments owed the authority are current.

Upon receipt of instructions to pass a transport, mortgage or lease from those holding such, the Registrar will publish an announcement in the official *Gazette*. During the ensuing two weeks, any person with a claim may file an opposition to the transport. If no opposition is entered, the transport request is laid before the Registrar. If all is in order, the Registrar will certify such and record the transport in the Deeds Registry.

Lands Registry Act (5:02)

The object of the Act is to simplify and facilitate the titling of and dealing with land. In addition, the Act seeks to secure "indefeasibility of title to all registered proprietors." The Minister has the authority to create land registration districts. Registered land is under the office of Registrar of Deeds and Deputy Registrar of Deeds, who for the time being will also hold the title of Registrar of Lands and Deputy Registrar of Lands for purposes of this Act.

The Registrar is responsible for maintaining a register for the registration of the title to land in those districts in which the system applies, for recording dealings under this Act, and for issuing a certificate of

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title. Each lands registry district will establish and maintain a land registry, with the land registry in Georgetown the principal register.

The Act calls for the establishment of a special Land Court in each lands registry district. The Commissioner of Title will have jurisdiction in all claims made relating to land situated in such districts and will preside over the Land Court, with the authority and powers of judge.

The Government is moving generally towards a registry system nationwide. A good portion of the Act outlines the procedures the Government must follow to register title and other forms of ownership under the lands registry system in areas where it previously did not exist. An important aspect of this discussion in the Act is the provision that permits land previously registered under the *Deeds Registry Act* to become registered under the *Lands Registry Act*, in districts where the lands registry system is established, when sold by the current transport holder.

The Act safeguards the title of every registered proprietor as absolute and indefeasible except in the case of fraud and errors in the fixing of boundaries. Every registered titleholder holds the land subject to, among other things:

- Any interests registered or entered in the register;
- Any public right of way or easement;
- Any charge on or over land created by the express provisions of another Act, without reference to registration under this Act, to secure any unpaid rates, taxes, assessments or other moneys due and owing to the State or to any statutory authority.

An individual who proposes to take title to registered land need only be concerned with the mortgages, charges, leases, or other encumbrances registered against the land under the *Lands Registry Act*. Once land is registered, the purchaser of such land need not be concerned with the circumstances of ownership prior to the land being registered under the Act, except where fraud is later proven.

The holder of title may transfer the title to another provided the transferor presents the Registrar with a certificate from the Revenue Authority stating that the transferor is current on taxes (Certificate of Compliance). The transferor must furnish the Registrar with a similar certificate from the appropriate local government organ (usually Town Council) stating the same for local rates and taxes on the immovable property.

Land that has a registered encumbrance, such as a mortgage or lien, can not be transferred until the mortgage is settled or the transferee, the buyer, agrees to assume the mortgage. For this reason, it is important to "discharge" the mortgage or other charge against the land when it is cleared. This is done through the Registrar.

Registered land may be leased and the lease registered if longer than three years. Unless stated otherwise, any lease registered under the Act implies the following conditions:

- That the lessee will pay the rent in the amount and at the time indicated in the lease;
- That the lessor will pay all rates and taxes which may be payable in respect of the premises;
- That save in the case of premises leased as dwellings for human habitation the lessee will keep the premises in good and tenantable repair (storm damage or reasonable wear and tear excepted);
- That the lessor may inspect the premises with two days notice and require the lessee to make any necessary repairs within a reasonable time period;

- That in default of the lessee repairing any defect as directed the lessor may from time to time enter the premises and make the required repairs;
- That the lessor may enter the premises, with workmen and all necessary materials and appliances, for the purpose of complying with the provisions of any legislation or notices affecting the premises involving the carrying out of repairs or other work that the lessee may not be bound or may neglect to do, and also for the purpose of exercising any right of the lessor under the lease. (Provided that such repairs, work or other acts shall be carried out or done without undue interference with the occupation and use of the premises by the lessee.);
- That where rent is in arrears by 30 days or the lessee is in default of any term or condition whether expressed or implied in the lease by 30 days, or the lessee fails to make required repairs in the time prescribed, the lessor may re-enter on the premises without releasing the lessee from liability in respect of the breach or nonobservance of any such term or condition.

Leased land may be subleased for a period less than the initial lease provided subleasing is not precluded in the initial lease document. The Act also addresses transfer of title in cases of death, insolvency, winding up orders, and the right of individuals to inspect the registry. In addition, the Act discusses easements; restrictive covenants; rights of way of necessity; trust or fiduciary registration; registration and removal of judgements, writs, and caveats; among other items.

The Act calls for the establishment of an Assurance Fund from the proceeds payable to the Registrar under the Act. The fund is used to pay legitimate claims, as specified in the Act (e.g. an error in registration) up to an amount equal to the value of the land immediately before the register was corrected or, if not corrected, the value at the time of the error, omission etc that gave rise to the loss.

Status of Aliens Act*

(chapter 14:04)

Topic: Non-resident property rights

The Act addresses the capacity of an alien to acquire and dispose of property. The Act states that "moveable and immovable property of every description may be taken, acquired, held and disposed of by an alien in the same manner...as by a citizen." The Act also allows for an alien to acquire title to movable and immovable property of every description "through, from, or in succession to an alien in the same manner in all respects as through, from, or in succession to a...citizen."

*The information contained in these abstracts is summary in nature only. The reader is encouraged to review the Acts in their entirety with a competent authority, lawyer, accountant, etc. as the case may call for.

Dealers in Foreign Currency Act*

(chapter 19)

Topic: Regulation of those trading in foreign exchange

The Act governs the licensing of persons whose business is the buying and selling of foreign currency. Foreign currency means "any currency other than Guyana dollars and includes travelers' cheques in a foreign currency." The Ministry of Finance must approve each application for a license. The application should discuss the experience of the applicant in dealing with foreign currency, the applicant's financial resources, the character of the applicant, and proposed location for the cambio. An applicant may be turned down, where in the opinion of the Ministry, there exist already an adequate number of foreign currency dealers. The license must be renewed annually and may be suspended or revoked by the Ministry.

Licensed dealers are free to establish their own rate of exchange and to sell any foreign currency to any individual buyer requiring the currency. The Ministry, however, can restrict the selling of foreign currency as necessary.

A licensee must keep accounts that show the amount of foreign currency sold and purchased each day and the price paid and the opening and closing balances each day of each foreign currency held by the licensee. Each Monday a report must be submitted to the Bank of Guyana stating the opening and closing rates for the preceding week for the currencies held. Each Wednesday a report must be submitted to the Bank of Guyana showing, by currency, the previous week's opening balance, purchases, sales, and closing balance.

Those who sell to unlicensed dealers face a penalty of \$5,000 and one year in prison. Unlicensed buyers of foreign currency can be fined not less than \$10,000 and sentenced to three years in prison. Failure to comply with a request by the Ministry or other obstruction of justice may result in imprisonment for one year and a fine of \$10,000. A person contravening any part of the act that may not be specifically covered by the aforesaid fines, may be fined \$5,000 and spend one year in prison.

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Environmental Protection Act*

(chapter 20:05)

Topic: Role of EPA and performance of an EIA

In June 1996, the Government of Guyana enacted the *Environmental Protection Act*, chapter 20:05. This Act provides for the "...management, conservation, protection and improvement of the environment, the prevention or control of pollution, the assessment of the impact of economic development on the environment, [and] the sustainable use of natural resources." The Act created the Environmental Protection Agency (EPA), which has diverse authority with respect to the prevention, in the first instance, and minimization of environmental degradation.

Environmental Protection Agency

The EPA is charged with the effective management of the environment so as "to ensure conservation, protection, and sustainable use of its natural resources." As the focal point for the coordination of institutional linkages (locally, regionally, nationally, and internationally), the EPA advises the government on all matters pertaining to the environment, including the environmental impact of investments. In carrying out its duty, the Agency may, among other things, establish and enforce environmental regulations, formulate standards and codes of practice, levy penalties, and require environmental impact assessments (EIA) before authorizing any activity that may damage the natural environment.

Importantly, from an investment perspective, the EPA has the authority to "request, examine, review, evaluate and approve or reject environmental impact assessments..." and to recommend action to mitigate the negative impact of proposed activities. The Agency is also charged with the follow-up investigation and inspection of activities to ensure on-going compliance with EPA regulations. In carrying out its role, the EPA follows the principles of:

- Polluter pays
- Precaution in the face of uncertainty regarding environmental impact
- Strict liability
- Avoidance of environmental damage is preferable to repair
- The best technology available at the time should be used to prevent or repair environmental damage.

Environmental Impact Assessments

The Act requires EIA's, at the investor's expense, for specific initiatives such as: hotels, guest houses or inns; hydro-electric projects; roads, harbours, airfields; forestry; mining; and others. Though the Act does not specifically mention industry, the Act does call for EIAs to be performed for any project that "...may significantly affect the environment..." In practice the EPA takes this statement to include any industrial project. The EPA can exempt a project from the need for an EIA, but the project may not begin until the exemption is awarded.

When completed, the EIA is submitted to the EPA, specifically the Environmental Assessment Board, for review and recommendation. The public is also invited to comment on the assessment. The Agency is required to publish its decisions and the basis for them. In cases where a permit is issued, it shall be subject to any "reasonably necessary" conditions and a series of implied conditions, e.g., right of Agency to suspend or cancel the permit, use of most appropriate technology, and the investor's obligation to

*The information contained in these abstracts is summary in nature only. The reader is encouraged to review the Acts in their entirety with a competent authority, lawyer, accountant, etc. as the case may call for.

restore and rehabilitate the environment. In addition, the EPA may require of the investor certain financial assurances to secure the investor's actions or guard against inaction.

The EPA provides a list of firms pre-qualified to carry out impact assessments. A current list, as of August 2000, is available in Annex A. EPA also makes available to the public a register of EIAs performed and approvals granted.

Companies Act* (chapter 29)

Topic: Formation and management of a registered company under the Act

The *Companies Act* is a detailed Act containing 542 sections and 7 schedules. The following discussion provides only a small taste of its contents. Investors are encouraged to review the Act carefully and, for many actions contemplated under it, to consider engaging competent legal counsel.

Review of Sections

The Act includes a discussion and guidance on myriad issues pertaining to companies. For purposes of the Act a company means an incorporated entity. With respect to such companies the Act addresses, among many other topics, the following subject matter:

- Incorporation of companies
- Share capital and classes of shares
- Meetings
- Proxies
- Accounts
- Auditor
- Transfer of shares and debentures
- Arrangements and reconstruction
- Receivership
- External companies
- Capacity and powers of companies
- Directors
- Voting shares
- Annual returns
- Director's annual report
- Corporate records
- Take-overs
- Protection of creditors and investors
- Prospectuses
- Winding up

Company Formation

One or more persons may incorporate a company by signing and sending to the Registrar the company's articles of incorporation. The articles are to be submitted with a statutory declaration by an attorney that no signatory is under 18, of unsound mind as determined by a Tribunal, or an undischarged bankrupt. The articles of incorporation must include, among other statements:

- Proposed name
- Registered office in Guyana
- Classes and maximum number of shares authorised to be issued
 - If two or more classes, the conditions and rights attached to each and
 - Directors right to fix and determine such conditions and rights for classes issued in a series
- Minimum issue price
- If right to transfer shares is restricted, a statement to this affect
- Number of directors or the minimum and maximum number of directors
- Any restrictions on the business

Share Capital

Shares in a company are to be without nominal or par value. Shareholders in a company with only one class of shares are considered equal in all respects, including the right to vote, receive declared dividends, and receive remaining property upon dissolution of the company. If the articles provide for

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more than one class of shares, then the rights, privileges, and conditions attached to each must be set out in the articles.

Financial Disclosure

The Act provides significant details on many caretaking facets of company operation. Among the more exhaustive parts is the discussion on financial disclosure. The types of accounts and records to keep, the need for annual audited statements, selection of auditor, and director emoluments, among many other aspects of account keeping, are reviewed in some detail.

External Companies

An external company is any incorporated or unincorporated entity formed under the laws of a country other than Guyana. An external company is considered to be operating in Guyana if it

- Regularly transact business from an office in Guyana
- Establishes or uses a share transfer or share registration office in Guyana
- Enters into two or more contracts with residents of Guyana or companies incorporated under this Act.

No external company may begin or carry on any undertaking in Guyana until it is registered under this Act. However, to register under this Act, an external company must file with the Registrar, within one month after it commences to carry on business in Guyana, a statement in duplicate setting out:

- Name of company
- Jurisdiction within which the company was incorporated
- Date of its incorporation
- Manner in which it was incorporated
- Particulars of its corporate instruments
- Period fixed, if any, for the duration of the corporation
- Extent, if any, to which liability of shareholders is limited
- Undertaking that the company will carry on in Guyana
- Date company intends to commence its undertakings in Guyana
- Full address of registered head office outside Guyana
- Full address of principle office in Guyana
- Full names, addresses, and occupations of the directors
- Authorised, subscribed, and paid up capital, shares authorised to issue and nominal or par value, if any

This information must be accompanied by a statutory declaration by two directors of the company verifying the particulars as presented on behalf of the company, a copy of corporate instruments, the prescribed fees, a power of attorney, and a statutory declaration by an attorney that everything has been complied with.

Labour Related Acts*

Topic: *Role of various labour related Acts in the labour management process*

A discussion of the rights and obligations of an employer with respect to labour is necessarily bound by a number of related Acts, among them:

- Accidental Deaths and Personal Injuries Act
- Accidents and Occupational Diseases Act
- Employment of Young Persons and Children Act
- Equal Rights Act
- Factories Act
- Holidays with Pay Act
- Labour Act
- National Insurance and Social Security Act
- Occupational Health and Safety Act
- Prevention of Discrimination Act
- Public Holidays Act
- Termination of Employment and Severance Pay Act
- Trade Union Recognition Act.

Below, several of these Acts are considered in greater detail from the perspective of their legal underpinning.

National Insurance and Social Security Act (36:01)

The *National Insurance and Social Security Act*, chapter 36:01, establishes a system for the payment of various benefits, such as old age, invalid, survivor, sickness, maternity, and funeral. The Act also provides for a system of insurance against "injury or death caused by accident arising out of and in the course of employment or resulting from disease due to the nature of employment", and the establishment of a National Insurance Board. The Board provides oversight for the National Insurance Scheme (NIS).

NIS eligible persons are defined in general as those over 16 years of age and under 60 who are "gainfully employed in insurable employment." Both the employer and the employee are required to make monthly contributions to the Scheme. Currently, employers contribute 7.2 percent and employees 4.8 percent of on the first \$76,000 eligible monthly salaries. The employer's contribution is on top of the employee's salary, i.e., it may not be deducted from the employees remuneration. The employee's contribution is taken from the employee's wages. However, it is the responsibility of the employer to deduct the employees NIS payment and submit both employer and employee contributions to NIS. Payments are due by the 15th of the following month. The employer has the responsibility to maintain necessary records and to make such available to the NIS upon request. The NIS provides the necessary forms for such record keeping.

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Labour Act (98:01)

The regulation of the relationship between employers and employees, and the settlement of disputes that may arise between them, is governed by the *Labour Act*. The Act addresses minimum wages, work hours, payments, collective agreements, and arbitration among other topics.

The Minister of Labour has the right to form a committee of employers and employees to review and recommend minimum wages for any occupation. Based on the recommendation of the committee, the Minister can establish a minimum wage covering time-rates, piece-rates, or overtime rates. In certain circumstances the Minister can prescribe rates without appointing an advisory committee. In either instance, the minimum wage prescribed is subject to a negative resolution of the National Assembly before becoming law.

Employers must keep adequate records of all wage payments and provide access to the premises for the purpose of reviewing such records when asked to do so by the proper officers (i.e., Chief Labour Officer, Deputy Chief Labour Officer and the Assistant Chief Labour Officer). Failure to keep records of minimum wages paid may result in a fine of \$15,625 plus another \$625/day for each day the employer remains in default after conviction. Failure to provide access to the premises by an authorized officer for the purpose of viewing such records is subject to a fine of \$200 or three months imprisonment.

An employer that fails to pay the stipulated minimum wage, where such is established, is subject to a penalty of \$15,625. On a second or subsequent conviction, the fine becomes \$46,875. For occupations without a specified minimum wage the employer and employee can set the rate of pay. However, if the employer fails to pay the employee the agreed to wage, the employer upon conviction can be fined \$15,625, and \$46,875 for repeated offenses.

Wages, whether minimum or established through agreement, are to be paid in money only and not in any other manner or form. Wages can be paid weekly, fortnightly, and monthly or at some other interval agreed to between the employer and employee. Allowances can be paid in a form other than money, e.g., housing, food, transportation, etc. An employer may advance wages to an employee but can not deduct charge interest on or deduct discounts from such advances. An employer may deduct up to one-third of the wages paid an employee in a month for the following:

- Unpaid rent owed by employee to the employer
- Outstanding grazing fees owed to the employer
- Medicine or medical attendance provided by the employer at the employee's request
- Cost of tools or materials supplied to the employee
- Victuals supplied by the employer
- Cost of goods supplied by employer to employee for the employee's personal use
- Money advanced to the employee

An employer who makes unlawful deductions or pays wages in another form of compensation other than money is subject to a fine of \$6,250 for the first offence, \$15,625 for the second offense, and \$46,875 for each subsequent offence.

Collective labour agreements are binding under the Act. A copy of each collective agreement is to be presented to the Chief Labour Officer within three months after signing, or each person signing the agreement can be fined \$500 plus \$50 for each day the agreement is not presented. Collective agreement is any agreement or arrangement, made by or on behalf of one or more organisations of employees and either one or more employers, organisations of employers, or a combination of employers or organisations of employers. The agreement must prescribe the terms and conditions of employment or procedural matters, such as:

- Negotiation or arbitration of terms and conditions of employment
- Negotiating rights
- Facilities for trade union officials or officers of other organisations of employees
- Procedures relating to dismissal, discipline, and/or grievances

In cases of labour disputes, the Minister of Labour has the authority to step in to expedite a settlement. If the Minister decides that a dispute may be harmful to the national interest, the Minister can, with or without the consent of either or both parties to the dispute, refer the matter to an arbitration tribunal consisting of one or more individuals appointed by the Minister. The decisions of this tribunal are binding. Failure by the employer to comply with the binding decisions of the arbitration tribunal can lead to fine of \$1,000, and \$100 per day for continuing offense.

Termination of Employment and Severance Pay Act (99:09)

Whether as the result of a reduction in work force or for cause, the guiding legal document is *the Termination of Employment and Severance Pay Act*, chapter 99:09. This Act covers continuity of employment, termination of employment and severance or redundancy allowance.

Employment may be terminated by mutual consent, on grounds of redundancy, or by either party for cause. An employer may summarily dismiss an employee guilty of serious misconduct, without notice or payment, either severance or redundancy. However, before an employer may dismiss an employee for misconduct the employee must have been given adequate warning.

For relationships terminated for reasons other than cause, an employer must provide the recognized trade union or, if one does not exist, the employee and the Chief Labour Officer a period of notice to terminate. For those employed less than a year the prescribed period is at least two weeks. For those employed more than a year the period is a minimum of one month. (Those terminated while under a probationary period require no period of notification.) In addition, at least one month prior to termination, the employer must consult with the same people regarding any possible measures that could be taken to avert or mitigate the adverse effects of termination. Severance, for employees not dismissed for cause, is to be paid as follows:

- 1 week's wages for each completed year of service for the first five years,
- 2 week's wages for each completed year of service after the fifth year and up to the tenth year,
- 3 week's wages for each completed year of service in excess of ten years up to a maximum of fifty-two weeks.

Role of Unions in Guyana Labour

About 35% of Guyana's official work force have voluntarily joined one of about 18 active unions. The *Trade Union Recognition Act* requires the employer to recognize the trade union selected by the majority of employees to represent them. Among other things, the Act protects employees from termination or other mistreatment as a result of serving in a union and requires both parties (employee and employer alike) to negotiate in good faith. In instances where an agreement can not be reached arbitration may ensue where:

- Both parties consent and mutually select an arbitrator; or
- A Tribunal is formed under the *Arbitration Act*; or
- Arbitration is considered to be in the best interest of the country and made compulsory.

Lands Development Act*
(chapter 59:01)

Topic: Leasing of State-owned or Government-owned land

The leasing of State- or Government-owned land involves several offices at different junctures in the process. Among the most important of these is Lands & Survey, which is governed by the *Lands Department Act*, chapter 59:01 (LRO 3/98).

The Act establishes the responsibility of the department to "act as guardian over all State lands, rivers, and creeks..." (except those governed by the *Forests Act*) and all Government lands. The department will execute all surveys of State lands under its mandate for which permission to occupy, e.g., a lease, is to be given. The department may and has developed a list of qualified, non-government surveyors to assist with this function as required.

The department is charged with keeping registers of all grants (leases) of State lands and a separate register(s) of all Government lands. Such lands may only be rented or sold with the sanction of the President, unless delegated by the President to a relevant Ministry, i.e., Ministry of Agriculture.

Government land may be purchased but must first be authorized by the President, after which the Commissioner of Lands Department may provide the necessary conveyance. (Note: In such cases where previously Government-owned land is sold and a transport is passed, it must then be registered with the Deeds Registrar.)

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Tax Related Acts*

Topic: Role of various tax-related Acts in the investment and management process

Several Acts are relevant to a discussion of Guyana's tax regulations. The intent here is not to repeat the technical nature of these Acts but to highlight a few items of interest. Among the Acts that an investor should consider in conjunction with the Revenue Authority or a qualified accountant are:

- *Consumption Tax Act, Chapter 80:02 (LRO 1/98)*
- *Income Tax Act, Chapter 81:01 (LRO 3/98)*
- *Income Tax (in the Aid of Industry) Act, Chapter 81:02 (LRO 3/98)*
- *Corporation Tax Act, Chapter 81:03 (LRO 3/98)*
- *Capital Gains Tax Act, Chapter 81:20 (LRO 3/98)*
- *Property Tax Act, Chapter 81:21 (LRO 3/98)*

Consumption Tax Act (80:02)

This tax targets imported items and goods manufactured in Guyana. For imported items the tax is computed on the value of the goods as determined under the Customs Act plus the amount of any customs duty payable on those goods. For manufactured items, the tax is calculated based on its fair price in the open Guyanese market, usually considered the ex-factory price.

The Comptroller of Customs and Excise is responsible for collection, which for imported goods is done at the time the items clear customs. For manufactured goods the tax is collected from the manufacturer based on the sales price of goods leaving the premise. Every business registered under the Act must keep records and accounts as stipulated by the Comptroller, and make these records available for inspection.

Manufacturers whose business includes the production of chargeable goods whether sold or used by the manufacturer in another capacity must register with the Comptroller of Customs. Where the Comptroller has doubts about the collection of consumption tax revenue, the Comptroller requires the registering business to post security for future taxes.

Consumption tax is not due on exported items covered by the *Customs Act*. Any consumption tax that might have been paid on applicable exported items may be eligible for drawback. In addition, if taxed goods are accidentally lost or destroyed after payment of the consumption tax but before delivery, the tax may be remitted.

The Act provides for fines and penalties for a number of offenses under the Act. Late payments, those not paid by the 15th of the month in which payment is due, incur a fine of \$25,000 plus \$5,000 for each day delinquent. Fraudulent evasion of consumption tax is punishable by a \$20,000 fine or treble the amount of tax evaded, whichever is greater, plus up to two years imprisonment. False representation, whether purposefully or recklessly made, orally or in writing, is liable for a fine of \$20,000 and up to three years in prison. Failure to register, to properly account for acquired goods, to keep proper records, to provide samples or to assist an officer, is liable for a fine of \$25,000 plus \$5,000 per day during which the failure to fulfill requirements continues after having been properly notified.

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Income Tax Act (81:01)

Income tax is paid by nearly all who have earned income accruing in or derived from Guyana or elsewhere, and whether received in Guyana or not. This Act largely covers individuals, sole proprietorships and partnerships, but some sections apply equally to companies. (Corporations/companies and external companies, i.e., subsidiaries of foreign operations, are addressed in additional detail by the *Corporation Tax Act*.)

In the case of single ownerships and partnerships, the income earned by the owner or partnership is considered passed on entirely to the owner and, in the case of partnerships, to the partners according to each partner's percentage rights. As of October 2000, the income tax threshold was \$216,000, applied on a pro-rata basis according to the time worked during the year. The next \$134,000, pro-rated, is taxed at 20 percent and chargeable income above \$350,000, pro-rated, is taxed at 33 1/3 percent.

Dividends paid to recipients who are resident in Guyana by resident Guyana companies and non-resident companies incorporated and located in Guyana are tax-free. However, income tax is due on dividends paid to resident individuals by non-resident companies located outside of Guyana. (Resident companies are locally incorporated companies in which control and management are exercised in Guyana.)

The tax law permits many **deductions** from income in calculating taxable income including: interest on capital employed; rent paid; machinery replacement cost after subtracting the depreciated value of old equipment and any sum realized from its sale; repair costs; bad debts; and fire insurance premiums among others. The regulations allow for deductions due to wear and tear of plant and equipment employed in the production of income. For certain businesses accelerated depreciation schedules are available. Deduction of "head office expenses" (e.g., management, technical, etc.) paid to a non-resident company or branch can not exceed 1 percent of annual turnover.

The Act permits **losses** to be carried forward indefinitely until the loss is completely recouped. There are some stipulations, however, that may limit the amount that can be applied to chargeable income in any one tax year. For example, the application of a loss carryforward may not reduce the tax payable to less than one-half of the amount payable before the set-off, and for commercial companies not below the 2 percent minimum tax (see below).

Encouragement is provided to **farming** by way of an additional deduction of expenses incurred in the development of land for agricultural purposes. Costs incurred in the development of land for agricultural purposes may be deducted at a rate of one-tenth of such costs per year over ten years.

As an incentive to **exports**, the tax regulations include an export allowance. The allowance applies to most exports, except for a shortlist of more traditional Guyanese products (e.g., timber, lumber, rice, shrimp, and others) or exports of any nature to a few select countries (all of which are members of CARICOM, e.g., St. Kitts, St. Lucia, Barbados, Trinidad & Tobago, Belize, and others). The deduction is based on the value of goods exported in relation to total sales.

<u>Export/Total Sales</u>	<u>% of Export Profit Deductible</u>
Under 10%	Nil
10% - 21%	25%
22% - 31%	35%
32% - 41%	45%
42% - 51%	55%
52% - 61%	65%
exceeds 61%	75%

A **withholding** tax is chargeable on any gross distributions to individuals not resident in Guyana and on gross payments of interest earned by any person resident and non-resident alike. The rate of withholding on distribution is 15 percent and 10 percent on payments other than interest. Withholding rate on interest payments is set at 15 percent. An office, branch or agency of a non-resident company engaged in trade or business in Guyana that remits any part of its profits to the non-resident company is liable to account for and pay a withholding tax of 15% on such remitted profits. Remitted profit is after the payment of any income or corporation tax due, i.e., the withholding tax on such remitted profit can not be claimed as an expense in the calculation of income or corporate tax.

It is the responsibility of the business, regardless of nature or status (e.g., sole proprietorship, partnership, or company, resident or non-resident) to keep proper accounts and **records** of income and expenditures, and to retain such records for any given tax year for a period of eight years. Each business is expected to make quarterly tax **payments** based on estimates of taxable income for the year. Taxable income estimates are typically determined by the proceeding year's tax obligation. Such quarterly payments are due April, July, and October 1st and December 31st for sole ownerships and partnerships. For companies the quarterly payments dates are March, June, September, and December 15. The annual **filing** date for returns is April 30 for the preceding calendar year for firms and incorporated companies. All businesses have a calendar year tax year. Companies (including external companies, i.e., foreign businesses) may apply to the Internal Revenue for permission to use a fiscal year that is different than a calendar year.

If tax is paid in excess of the amount that is properly due upon final determination of annual tax liability, a **refund** will be issued. A claimant has seven years from the filing due date for the refund year in which to file for a refund. Guyana has double taxation **treaties** with Canada, the United Kingdom, and Northern Ireland, as well as members of CARICOM. The Commissioner of Internal Revenue may grant unilateral relief for taxes paid in countries with systems and legislation similar to Guyana.

Income Tax (in the Aid of Industry) Act (81:02)

The Act provides **tax relief** to a variety of industries, e.g., sugar; rum distillation; mining; manufacturing of glass, paper, nails, housewares, cement, refrigerators; fertilizers and a long list of other items; logging; breweries; hotels; canning; foundries; and more. However, it excludes gold, diamonds, and petroleum, which are eligible for other special allowances. Among the Act's **provisions**:

- An initial allowance of 10 percent of the cost of constructing a structure for the purpose of operating an eligible activity in the year in which the capital expenditure is incurred. Thereafter, a deduction or annual allowance of 5 percent per annum is permitted, in which the allowance is calculated on the cost of construction less the initial allowance.
- A depreciation initial allowance of 40 percent of the cost of machinery, The cost of altering an existing building to accommodate the new machinery may be added to the cost of the machinery for purposes of calculating the allowance.
- For extraction industries, other than those stated above, an initial allowance of 10 percent on the construction of works likely to have little or no value when the source is no longer producing. Thereafter, an annual allowance is allowed. The allowance equals the greater of 5 percent of the balance remaining after the initial allowance, or, the remaining balance times the extracted output value for the period divided by the sum of such value plus the potential future value of output to be extracted overtime.
- An allowance on the purchase of patent rights, equal to the lesser of the expenditure divided by 14 or the number of years for which the patent rights are valid if less than 14.

- Deferred income recognition on the net proceeds from the sale of patent rights by residents, whereby one-sixth of the net proceeds may be recognized each year for six years.
- Deduction for scientific research expenses in determining taxable income.
- An initial allowance for capital expenditures on scientific research of 60 percent of the expenditure and an annual allowance equal to 10 percent of the expenditure for each of the next four years.
- Subject to certain conditions, an annual allowance equal to one-tenth the cost of constructing housing for workers.
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- Subject to certain conditions, an annual allowance equal to one-tenth the cost of constructing housing for workers.

Corporation Tax Act (81:03)

This Act regulates the tax on profits of companies (i.e., incorporated or not, but not partnerships or sole proprietorships). The Act distinguishes between resident and non-resident companies, where the latter is a company in which the control and management are exercised outside Guyana. The Act also draws a distinction between commercial and non-commercial businesses, where the former derives at least 75 percent of its gross income from trading goods it does not manufacture.

The corporate **tax rate** is 45 percent for commercial companies and 35% for non-commercial companies. Commercial companies with a minimum turnover of \$1,200,000 are subject to a **minimum tax** equal to the greater of the applicable corporate tax or 2 percent of turnover. For calculating the minimum tax the entire turnover is applicable for resident companies, whereas for non-resident companies turnover for minimum tax computations includes income directly or indirectly arising from its operations in Guyana. Where a company has paid a minimum tax, that portion of the tax that exceeds the corporate tax that would have been paid can be carried forward and set off against future company tax obligations to extent that those future obligations are in excess of the minimum tax.

The Act prescribes some requirements that are specific to a "close" company, i.e., one that is under the control of five or fewer participators or of participators who are directors. Non-resident companies are exempt from the definition of close companies. Among the regulations, limits are established as to the amount of individual director's fees that may be deducted as expenses.

Capital Gains Tax Act (81:20)

A capital gains tax of 20 percent is levied on net chargeable capital gains in excess of \$1,000. This tax is applicable on assets held less than 25 years and exchanged at a gain above the original acquisition price less depreciation, provided such gains are not treated as profits for purposes of income tax computations under the *Income Tax Act*. (For assets acquired before January 1, 1991, the assets depreciable value is calculated as its market value on 1/1/91 plus any additions up to the date of disposal.)

The Act permits the carryforward of net capital losses in excess of \$1,000. These capital losses may be carried forward for 24 successive years and applied against the realized, annual net chargeable capital gains in those years.

Property Tax Act (81:21)

Property is defined as movable and immovable and net property, on which the tax is computed, means the amount by which the aggregate value of property is in excess of the aggregate value of all debts owed. The rate of tax is:

- For a person other than a company:
 - Filing threshold is \$7.5 million of net property
 - For every dollar of the next \$5 million of net property .5% (.005)
 - For every dollar of the remainder of net property .75% (.0075)
- For a company
 - Filing threshold is \$1.5 million of net property
 - For every dollar of the next \$5 million of net property .5% (.005)
 - For every dollar of the remainder of net property .75% (.0075)

Financial Institutions Act* (chapter 85:01)

Topic: Regulating banks and other financial institutions

The Act covers banks and other companies engaged in financial business in Guyana. Financial business includes entities that receive deposits from the public, other than demand deposits, or take in funds through the issuance of debt obligations or shares and the re-lending or investment of such deposits. Among the types of businesses covered by the Act: lending institutions; factor or discount houses; leasing, financing, and trust companies; merchant banks; underwriters or dealers; securities or loan brokers.

Prior to conducting a banking or financial business in Guyana, it is necessary to apply for a license to the Bank of Guyana (BofG). The BofG is the supervisory authority and has rights, authorities, and responsibilities accordingly. The application fee is \$25,000. Once the necessary information is furnished to the BofG, the Bank of Guyana will make a decision within 120 days, or 180 days for an application from a foreign company. Among the information required in the application:

- The name, permanent address and nationality of the applicant or, in the case of an applicant group, each member of the applicant group;
- The proposed memorandum and articles of association of the applicant;
- The applicant's proposed home office address, and the address of every proposed branch;
- The name, permanent address and nationality of every person who owns or proposes to subscribe to more than ten percent of any class of shares to be issued by the applicant;
- The name, permanent address, and nationality of every proposed director and officer;
- The amount of the applicant's proposed capital (The Act requires for deposit accepting institutions a minimum, fully paid-up capital base, unimpaired at all times, of \$250 million and \$2.5 billion for foreign financial institutions. In addition, foreign financial institutions must assign to the BofG for each branch in Guyana a minimum of \$250 million.);
- A full description of the types of deposit-taking, lending, and other financial business the applicant proposes to conduct;
- A detailed business plan or plan of operation, with projections, for at least the first three years of operations;
- If available, audited financial statements for the last two years; and
- Any additional information the BofG may require.

Licensed financial institutions must pay, by the 1st of February of each year, a fee of \$500,000 for each place of business in the City of Georgetown and the towns of New Amsterdam, Linden, Rose Hall, Corriverton, and Anna Regina. For places of business outside these locales the fee is \$250,000.

The Act controls the use of the words bank, financial institution, savings, loan, etc. for purposes of advertising. It also addresses, among other things, insolvency and winding up; the acquisition of other financial institutions covered by the Act; the declaration and payment of dividends; the Bank's right to

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investigate and, as necessary, revoke licenses; and the Bank's right to approve "fundamental" changes (including, name, location, ownership, etc.).

A licensed, deposit taking financial institution may acquire or hold in the aggregate 50 percent of its capital base in the share capital of any commercial, agricultural, industrial or other undertaking. Such shareholding, in respect to any one such undertaking, however, may not exceed 25 percent of the financial institution's capital base.

Licensed financial institutions must maintain a reserve fund and must transfer to this reserve, from net profits before dividends or remittances, an amount equal to at least 15 percent of such profits whenever the reserve fund is less than the paid-up capital or assigned capital of the institution. Likewise, the Bank has the right to establish a minimum liquid asset level in relation to liabilities for financial institutions that accept deposits. Liquid assets includes, among other assets, notes, coins, balances held with the Bank, net demand or time deposits at other licensed institutions in Guyana; net balances of convertible securities in financial institutions outside Guyana, Government of Guyana marketable debt obligations, etc.

The Bank requires licensed financial institutions to deliver periodic statements of its assets and liabilities; loans and advances; and earnings and expenses. In addition, within 20 days of receipt of audited statements, institutions must publish in a general circulation newspaper in Guyana copies of its balance sheet and income statement, along with the auditor's statement.

Foreign Exchange (Miscellaneous Provisions) Act*
(chapter 86:01)

Topic: The handling of foreign currency, gold or securities transactions

The Act permits only authorised dealers – those authorised by order of the Minister of Finance – to lend, borrow, trade, or exchange foreign currency. Likewise, residents must have permission from the Minister to operate a foreign currency account in Guyana. To receive such, a resident must demonstrate a need for the foreign currency and an income stream in the currency.

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Dealers in Foreign Currency (Licensing) Act*

(chapter 87:01)

Topic: *Licensing of foreign currency dealers*

Anyone who wants to buy and sell foreign currency must apply to the Bank of Guyana for a license annually. The Bank will consider the person's experience, financial resources, and character in deciding to award or not a license. The Bank will consider also the extent of foreign currency service available in the area in which the dealer wishes to locate.

The licensed foreign currency dealer is free to set the price of the exchange. The rates of exchange must be displayed. A licensee may not engage in the lending, borrowing or acceptance of deposits in any currency unless the licensee is also licensed as a financial institution under the *Financial Institutions Act*.

Licensed dealers must keep proper accounts recording:

- Amount of each foreign currency purchased by the dealer each day and the price paid
- Amount of each foreign currency sold by the dealer each day and the price received
- Opening and closing balances each day in respect of each foreign currency held by the dealer
- The dealer determined, daily opening and closing exchange rates for each currency the dealer buys and sells.

Each Monday a licensed dealer must provide the Bank with the opening and closing buy and sell exchange rates for each day of the preceding week. In addition, each Wednesday a licensed dealer must furnish the Bank a statement summarising the previous week's business, including:

- Amount of each foreign currency the dealer held at the beginning of the week;
- Amount of each foreign currency purchased by the dealer in the week;
- Amount of each foreign currency sold by the dealer in the week;
- Amount of each foreign currency the dealer held at the close of business on the last day of the week.

Penalties for selling foreign currency to or buying it from someone other than a licensed dealer are a fine of \$10,000 and one year in prison. A person who is not a licensed dealer and is convicted of selling or buying foreign currency is subject to a fine of \$15,000 and imprisonment of three years.

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Partnership Act* (chapter 89:02)

Topic: Functioning and management of partnerships

A relationship that exists between people for the purpose of carrying on a business with a view towards earning a profit is considered a partnership. However, there are circumstances that may lead to a sharing of the profits of business that might not constitute a partnership, e.g., repayment of a loan.

Within a bonafide partnership (also referred to in the Act as a firm), every partner is an agent of the firm and of the other partners, unless specifically stated otherwise, and may bind the firm and the partners in carrying on the usual business of the firm. Where one partner pledges the credit of the firm for a purpose apparently not connected with the partnership's ordinary business, the firm is not bound, unless the partner is in fact authorized to do so. However, every partner in a firm is liable jointly and severally with the other partners, for all debts and obligations of the partnership incurred while a partner. This responsibility for debts incurred while part of the firm carries over to the estate of a partner.

All property and the rights and interests in property originally brought into the partnership or acquired on account of the firm or for the purposes of the business of the partnership is considered partnership property. The interests of partners in the partnership property in relation to the firm are subject to a number of listed rights and duties, among these are:

- All partners are entitled to share equally in the capital and profits of the firm and must contribute equally towards the losses.
- The firm must indemnify every partner in respect of payments made and personal liabilities incurred in the ordinary and proper conduct of the firm's business.
- A partner is entitled to earn interest of 6 percent per annum on amounts paid in or advanced the firm beyond the amount of capital agreed to.
- Every partner may take part in the management of the firm.
- No new partners may join the firm without the consent of all existing partners.
- A majority of partners can not expel any other partner unless a power to do so has been expressly conferred by agreement.
- Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.
- A partner has a duty to the other partners not to carry out any business that will compete with the firm.

The Act lists several ways in which a partnership may be dissolved. For example, the death or insolvency of any partner dissolves a partnership. In addition, a partnership is considered dissolved if it is entered into for a fixed term and that term expires. It may also be dissolved if it is entered into for a single undertaking and that undertaking is completed or, if entered into for an undetermined time, by any partner who gives notice to the others to dissolve the partnership.

In cases where a partnership dissolves on the ground of fraud or misrepresentation of one of the partners, the others are entitled, among other things, to be indemnified by the partner guilty of the fraud or

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misrepresentation, against all debts and liabilities of the firm. In settling accounts between partners after dissolution, the following rules will apply, subject to any agreement otherwise:

- Losses will be first paid out of profits, next out of capital, and lastly by partners individually in the proportion in which they are entitled to share profits.
- The assets of the firm, including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:
 - ⌘ in paying the debts and liabilities of the firm to persons who are not partners;
 - ⌘ in paying to each partner ratably what is due from the firm to him for advances as distinguished from capital;
 - ⌘ in paying to each partner ratably what is due from the firm to him in respect of capital;
 - ⌘ the remainder (if any) is to be divided among the partners in the proportion in which profits are divisible.

Trade Mark Act*

(chapter 90:01)

Topic: Registration, use, and protection of a trade marks and patents

To be protected under the Act a trade mark must be registered with the Registrar of Patents, Designs, and Trade Marks. (Practically speaking this is the office of the Registrar of Deeds. The Act also covers the use of patents. As with trade marks, the Patent Office is part of the Deeds Registry located in Georgetown.) Three classes of trade mark registration are provided:

- Part A: To register under this section of the registry, a trade mark must contain or consist of at least one of the following:
 - ✕ name of a company, individual, or firm, represented in a special or particular manner;
 - ✕ the signature of the applicant for registration or some predecessor in the business;
 - ✕ an invented word(s);
 - ✕ word(s) having no direct reference to the character or quality of the goods, and not a geographical name or a surname;
 - ✕ any other distinctive mark, but not a name, signature, or word(s), other than such as previously described, without evidence of its distinctiveness.
- Part B: Trade mark must be capable of distinguishing goods with which the proprietor of the trade mark is or may be connected from goods in the case of which no such connection exists.
- Part C: Is applicable to proprietors of trade marks registered in the United Kingdom who wish to apply to register such trade marks in Guyana. Trade marks registered in the United Kingdom that are subsequently registered in Guyana will remain in force for so long as the registration in the United Kingdom remains in force. Renewal of a registered trade mark in the United Kingdom may be applied to the Guyana registration upon notification to the Registrar and payment of any prescribed fees.

In general the Act protects registered trade mark users and guards against the registering of similar trade marks. To register a trade mark an application must be filed with the Registrar and the application process must be completed within the ensuing 12 months. After review and approval of the application, the Registrar will place the application as advertisement to notify the public. The advertisement will provide a prescribed period in which a person may file an opposition to the registration. If opposition is filed, the Act provides for an appeal process. If there is no opposition or the appeal process finds in favor of the applicant, then the trade mark is considered registered as of the date of the application.

The initial trade mark registration period covers seven years and may be renewed for 14 years from the date of expiration of the original registration or of the last renewal of registration. The Registrar is to notify the holder of the registered trade mark before expiration. The Act covers, among other topics:

- Assignment of trade marks;
- Removal of trade marks for non-use from the register;
- Defensive registration of well-known trade marks;
- Rights of registered users of the trade mark other than the registered trade mark holder;
- Right to apply for alteration of registered trade mark;
- Certification trade marks covering origin, material, quality, accuracy or other characteristics.

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Business Names (Registration) Act*

(chapter 90:05)

Topic: Registration and use of business names

Every business that has a name that does not consist of the surnames of the individual or partners or the corporate names of all partners, if a corporate partnership, or where an agent carries on business for a foreign firm must register under the Act. Businesses must register within 14 days of commencing business and reregister by January 15 of each year. A business can reregister by simply providing the Registrar with the previous year's certificate for endorsement. Applications should include the following:

- the business name;
- the general nature of the business;
- the principal place of business;
- where the registration to be effected is that of a firm the present forename and surname, any former forename or surname, the nationality, (and if that nationality is not the nationality of origin, the nationality of origin), the usual residence, and the other business occupation (if any), of each of the individuals who are partners, and the corporate name and registered or principal office of every corporation which is a partner
- where the registration to be effected is that of an individual, the present forename and surname, any former forename or surname, the nationality, (and if that nationality is not the nationality of origin, the nationality of origin), the usual residence, and the other business occupation (if any) of that individual;
- where the registration to be effected is that of a corporation, its corporate name and registered or principal office;
- if the business is begun after the commencement of this Act the date when it is begun.

Changes in any of the particulars of business name registration must be registered within 14 days. Failure to register, reregister, or register changes in the business name may incur a fine of \$1,000. Providing false statements can incur a fine of \$25,000.

A registered business must exhibit the certificate of registration, or a certified copy, in a conspicuous place at the principle place of business. The Act is rather particular regarding what must be included on all letterheads used in connection with ordering goods for the business: registered business name and address and the true surname of individuals or the corporate names of all partner corporations. In addition, each business is required to affix in a conspicuous place a plaquecard indicating the name of the business and, "clearly painted in letters not less than two centimeters long, the forename and surname of each partner of the firm or of the individual, as the case may be, carrying on the business." Failure to do so may result in a fine of \$10,000.

In cases where a business has wound up, it is the responsibility of the partners or individual to notify the Registrar of such within three months of winding up. Anyone who fails to do so within this time period is liable to a fine of \$10,000. Where the Registrar believes that any business is no longer carrying on business, the Registrar may notify the business that it will be removed from the register if a response to the notice is not forthcoming in one month.

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Trade Act*
(chapter 91:01)

Topic: Regulation and control of imports and exports through licensing

The intent of the *Trade Act* is to provide the Government the means by which to maintain, control, and regulate traded commodities in order to assure sufficient supply of essential goods and their equitable distribution at a fair price. The Act allows the delegated competent authority to regulate exports and imports as necessary to ensure that the best interests of the community are served.

Through this Act, the Government may enter and inspect premises and stocks, as well as the books, accounts or other documents requested. Anyone found in breach of orders made under this Act is subject, among other penalties such as losing a license to trade, to a fine of \$500 to \$1,000 and imprisonment for three to 12 months.

Licenses to trade, import or export, in certain goods that are identified from time to time by the Government are issued by the competent authority, which is as of this writing the Ministry of Trade. Such licenses may be general or limited in nature, absolute or conditional, limited in duration, and revocable by the competent authority. The misuse of such licenses may result in a fine of \$750 to \$3,000 and imprisonment for six months to two years.

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Industries Aid and Encouragement Act*

(chapter 95:01)

Topic: Promotion and development of certain industries

The Act gives the Minister of Finance the authority to grant a license to import prescribed items duty free for the purpose of establishing a new industry or developing an existing industry. The license may be valid for up to five years (ten for mining) and excludes replacements, reconditioned, or rehabilitated machinery, plant, and appliances. The items listed as exempt under the Act include:

- Machinery and appliances;
- Launches, tugs, barges, and pontoons;
- Trucks, lorries, and wagons for transporting materials exclusively within the curtilage of the factory, mill, or mine;
- Building materials for the construction of premises to be used in the operation;
- Building materials for the construction of store houses for items imported under this Act;
- Building materials for tourist hotels of not less than 30 beds (if in municipal area) or 20 beds (if outside a municipal area), and approved furniture;
- Building materials for the construction of employee housing and township services, where justified.

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Occupational Safety and Health Act*

(chapter 99:11)

Topic: Registration and regulation of safety and health in industrial establishments

This Act applies to every industrial establishment (regardless of size or ownership structure), the owners, employers, and workers.

Every industrial establishment (factory, shop, office or workplace or building pertaining to) must register within 30 days of commencing operation and must renew the registration annually within 30 days of the anniversary of its registration. The application includes the name and address of the owner, the address and location of the establishment, the nature and object of the process, the number of employees, hazardous chemicals and physical agents at the establishment, among other pieces of information. Approved establishments will receive a certificate or continuation or renewal of registration.

Before beginning construction on a new establishment or additions to an existing establishment OSH must be notified and supplied with drawings, plans and other relevant specifications.

The Act calls for the establishment of an Advisory Council on Occupational Safety and Health appointed by the Minister. The Advisory Council is to advise on matters relating to occupational safety and health, make recommendations regarding programmes, and the enforcement and implementation of national policy on safety and health, and to promote awareness of occupational safety and health.

The Act creates an Occupational Safety and Health Authority. The Authority has the responsibility to inspect all industrial establishments and machinery. In carrying out its inspections, the Authority has broad powers, among many others, to enter premises (including floating vessels), to verify registers, certificates, etc. related to this Act and to remove such, as called for. The inspectors may test equipment, agents, chemicals, devices, etc.; take samples off premise; and take photographs or share information with experts or professionals. Inspectors can require establishments to test equipment, carry out inspections by independent parties, etc. at the business' expense; require owners to report on various limits, tolerance levels, etc. of materials, equipment, etc. used in or by the industry. The Act provides additional guidance on the powers of the inspectors.

OSH Act provides for a medical inspector to investigate and report on any death or injury caused by exposure in an industrial establishment to fumes or other noxious substances or as may be directed by the Minister to investigate. The industrial establishment pays the medical inspector's fees for the examination of the fitness of employees.

Establishments and construction sites with more than five employees must have at least one safety and health representative selected by the workers. The representative is to carry out a monthly inspection of the physical conditions of the workplace and to report findings to the employer, workers, and trade union(s) representing workers. The employer is obligated to facilitate the inspection and respond to any written report.

In most cases, a workplace with 20 or more regularly employed workers must have a joint workplace safety and health committee that will meet at least quarterly. The committee shall consist of at least four people, for a workplace of less than 50 workers regularly employed, and at least six people for a workplace of 50 or more. The Act lays out the formation of the committee and its duties and responsibilities. Among such, the committee is to identify situations that may be a source of danger or

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hazard to workers; recommend improvements to the work environment, propose monitoring programs, obtain relevant information from the employer of any nature that may impact on the safety, health and welfare of the workers.

Premises, in whole or in part, machinery or plant may be prohibited from further use if such is found by the Authority to pose an imminent threat to the safety and well being of workers. In cases where the threat is not imminent but apparent, the Authority can require the owner to make immediate improvements, reparations, etc. and to seek approval for and require testing of such by a date determined by the Authority.

The Act forbids the employment of children under the age of 15 to work in a factory or on the premises outside a factory building. The Act provides for the safety specifications of manufactured machinery, the sanitary conditions of the establishment, and outlines the duties of employers. There are some 30 plus employer obligations from provision of proper clothing to structural considerations of the premise, from instruction and supervision to establishment of a health and safety policy, and from a medical surveillance program to proper training. The duties of supervisors (to ensure workers abide by the rules established in the factory) and workers (to abide by the rules) are discussed. The Act addresses the duties and obligations of the "occupier" (the person who controls the industrial establishment and the work done there) and the "owner" (person receiving rent from the occupier on the industrial premise), as well as the owner of a construction site. Suppliers of machines, tools, equipment etc to the establishment must be sure that all is in good condition and complies with the Act. The directors and officers of a corporate body are responsible to ensure that the business complies with the Act and the requirements of inspectors, medical inspectors, and technical examiners.

The Act outlines the conditions under which a worker can refuse to work, the protection afforded him or her, and the necessary investigative steps. Part VI addresses the use of hazardous chemicals, physical agents and biological agents, including the use and storage of, inventory records to keep, and training to provide.

An employer is required to furnish forthwith a written report to the Authority of accidents that result in the loss of life. For non-fatal accidents a report is required within four days. Failure to do so can result in a fine of between \$10,000 and \$50,000, and imprisonment up to three months. In addition, an employer must keep a register of accidents. The Act provides guidelines on the investigation of accidents and authorities to do so.

Part IX considers offenses and penalties. Liability is defined and steps are outlined for prosecution. Any person who fails to register an industrial establishment or obstructs the Authority of inspector, among other things, is liable on conviction to a fine of \$25,000. Obstruction may be construed as failure to supply records, willful delays, or concealment or prevention of individuals from appearing before the Authority or inspector. Failure to comply with some sections of the Act can incur a fine of \$25,000 and, in the case of continued offense, a further fine of \$1,000 a day for each day the offence continues. Any person who contravenes or fails to comply with the provisions of the Act, an order or requirement of an inspector or the authority or the Minister or Commissioner faces a fine of between \$10,000 and \$50,000 and imprisonment for up to 12 months. If a corporate body is found guilty the fine may be up to \$500,000.